PUSINESS ESTABLISHED 1886.

THE AMERICAN LAWYER.

GERALD CHAPIN, LL.D., Editor.

THE NEWS-JOURNAL OF THE AMERICAN BAR

RECORDS THE ACTION OF COURTS AND LEGISLATURES; DISCUSSES THE LIVING PROBLEMS WHICH CONCERN THE BAR; KEEPS ABREAST OF CURRENT LEGAL LITERATURE; GIVES THE NEWS OF LAWYERS AND LAW ASSOCIATIONS, AND REPORTS ALL MATTERS OF INTEREST TO LIVE PRACTITIONERS.

SUBSCRIPTION PRICE:

$2.00 Annually in the United States Canada and Mexico.
$2.50 Annually in all other Countries.

STUMPF & STEURER, Publishers,

OFFICES:
20 Nassau Street,
at 149th Street and Bergen Ave.,

TELEPHONE,
161 MELROSE.
NEW YORK CITY.

Entered at the New York Post Office as Second Class Matter.

NEW YORK, JANUARY, 1903.

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THE RIGHT OF PROPERTY VS. THE RIGHT OF SELF-PRESERVATION.

The seizure of cars loaded with coal belonging to the railroads by the citizens of several Western towns has already furnished a text for endless editorials from the lay press. Still more appropriately may it be said to lie within the realm of the legal journal. Judging from the views we have already heard emanating from none-professional sources, a discussion of the question in a manner entirely free from hysteria, has proven somewhat difficult. In fact the incident was well qualified to upset the equanimity of the average editor, and it certainly did.

Now, let us bear one or two facts well in mind. The affair was in a sense unique. It was no mere vulgar riot of the lawless, having as its purpose (so far as any riot can be said to have an object), mere wanton destruction, pillage, or the murder or injury of unpopular members of the community. The leaders in the movement were in every instance the town's most respected citizens. Lawyers, clergymen and bankers were freely represented. The coal was carefully weighed, receipts given and distribution made in accordance with the necessities of each individual case. The takers stand ready to make payment for every ton appropriated the moment the railroad is ready to receive it. There were no scenes of disorder. The leaders were careful to procure the passage of a resolution by the local Board of Health that an emergency existed requiring the use of fuel—and the fuel was seized.

No doubt the actual taking was criminal per se—a caption and an asportation both. It is also beyond the shadow of a peradventure that according to the statutes in such case made and provided, the inhabitants of the offending towns should have permitted their families to freeze to death rather than violate that section of the Penal Code relating to grand larceny. To us, however, it seems that the law was made for man rather than man for the law. The right of property, however sacred, is, as a right, no more sanctified than that of self-preservation.

We furthermore find this right violated openly, flagrantly; yes, legally violated, under the principle of eminent domain, not to preserve life, but to add to its enjoyment by providing better methods of communication. We find it violated to preserve life, under the guise of an exercise of the so-called "police power." Surely if the action of these towns does not, in spirit at least, come under the head of either of these justifications it must be a distinction without very much of a difference.

The plain fact is that the right of property necessary to the preservation of society (necessary, whether or not we are inclined to adopt the Rousseau philosophy of a determined compact) is subordinate not only to the right of self-preservation, but to other rights having the weight of mere moral sanction. The legality of the Emancipation Proclamation prior to its receiving the seal of a constitutional amendment is an academic question of no mean interest. That slavery is wrong per se admits of no dispute. That slaves were "property" duly recognized as such by the highest law enunciating body in the land, every schoolboy knows. Which of these two incompatible propositions should give way it requires no hair-splitting casuist to determine.

To advance but one further step. Murder, the highest crime known to the law, is justified in self-defense.

It may well be questioned whether we are not worshipping too blindly at the shrine of the fetish, "vested rights." As lawyers we are sworn to uphold the law, but that certainly does not mean that we are bound down to an unswerving obedience and blind allegiance which will impel us to struggle for the continued existence of every act on the statute books. The position is not here taken that it rests with any of us to elect to obey or disobey a legislative act, according as our ideas

as to its ethical ropriety may dictate. The reproach of one of England's greatest writers we are not altogether undeserving of:

"That bids him flout the law he makes,
That bids him make the law he flouts."

The conclusion is merely advanced whether or not a time may arrive when the right of property will lose a trifle of its sacredness, whether or not under a higher, nobler principle it will not be relegated to a lower pedestal. It behooves us to think of this.

JUSTICE VAN BRUNT RAPS THE BAR ASSOCIATION.

The neatest hit at that body of Rip Van Winkles known as the "New York Bar Association" was delivered the other day by Justice Charles H. Van Brunt, of the Appellate Division of the Supreme Court. Some time ago the justice accepted a purely honorary position in one of the large financial concerns in this city, the New Windsor Trust Company.

Thereupon the association of goody-goodies became very much alarmed. To listen to the violent speeches which were made at a meeting held within the last few weeks one would think that the entire judiciary of the city was going to perdition at a gallop.

Judge Van Brunt has been on the bench for some thirty years. His term of office expires in 1905, when he will be seventy years old. Until such expiration the judge has nothing whatever to do with the New Windsor Trust Company, although after his retirement from office he will in all probability act in an advisory capacity.

This action is by no means exceptional among judges. Judge Denio, when first judge of the Court of Appeals, was president of the City Bank of Utica. During the whole time that Justice Harden was presiding justice of the Fourth Department he was president of the Little Falls National Bank. Judge Parker, chief justice of the Court of Appeals, is at present a director of the Kingston Savings Bank. Judge Bradley, of the United States Supreme Court, was vice-president of a large insurance company in Newark while a member of that court. Judge Peckham, of the United States Supreme Court, is a director of the Mutual Life Insurance Company, and Judge Kirkpatrick, of the Supreme Court of New Jersey, is president of a trust company in Newark.

Nevertheless, the association gets together, and in a series of fiery resolutions denounced the going into outside business of any member of the judiciary while occupying his official position.

"The American Lawyer" has received a number of letters, some complimentary, others otherwise, with regard to its editorial in the last issue relative to the association itself. We always like to print corroboration of our views, particularly from judicial sources, hence we take great pleasure in reproducing Judge Van Brunt's forcible language as it recently appeared in the "New York Journal:"

"The Bar Association has streaks of spasmodic virtue when it feels called upon to criticise some one in public life. This time I appear to be the victim. ALTHOUGH THE ASSOCIATION HAS A MEMBERSHIP OF 1,000 IT IS CONTROLLED BY SEVENTY-FIVE MEN. The Bar Association made no protest when Judge Rumsey was kicked off the bench through politics. Neither did it murmur when Judge Andrews failed to receive a nomination. And quite recently, when a judge was appointed through a political bargain between the Governor of the State and the person to whom was given the office, the virtuous Bar Association had nothing to say."

This is spirited language, which will be indorsed by the rank and file of New York City attorneys. The clique which presides over this virtuous-by-spasms association will no doubt consider it lese majesty of the highest type, but we for one consider that Justice Van Brunt has taken a firm stand, which deserves strong commendation.

AN ILLUSTRATION OF THE DOCTRINE OF "ATTRACTIVE NUISANCE."

The Consolidated Electric Light & Power Company was given permission by the city of Kansas City to carry its electric wires on a viaduct constituting a part of one of the streets. This the company did by stringing them on timbers projecting out from the side of the viaduct or bridge. There were a number of wires placed at distances of about a foot to several feet from the ends of the boards constituting the floor of the bridge. The sides of the bridge were guarded by an iron railing or balustrade, several feet high, running, substantially speaking, over the ends of the boards constituting the bridge floor. However, many of the boards projected beyond (that is, outside) the bridge railing. The electric wires alongside the viaduct were very defectively insulated. Their insulating covers had rotted away in many places. This fact the company knew. Small boys were in the habit of climbing over the viaduct railing immediately by the electric wires. This fact the company also knew. Holly Healy, a boy about ten years old, and of the average intelligence and characteristics of boys of that age, climbed over the railing, and came in contact with one of the electrically charged wires, and was killed. It is probable that the moment before he had been standing, or, rather, moving about, on the projecting ends of the bridge boards or the projecting wire supports. Suit was brought by his parents to recover damages for his death, and a judgment in their favor was affirmed by the Supreme Court of Kansas on December 6 (Consol. Elec. Light & Power Co. v. Healy, 70 Pac., 884).

The matter principally discussed is the question of the company's liability under the circumstances stated. As to the boy, who was not at the time on the highway proper, but who was engaged in a dangerous sport immediately outside of it, was the company negligent in maintaining its wires in an uninsulated condition, where he was liable to come in contact with them? To our minds, there can be no doubt as to the answer. It was liable. To an adult it might not have been. To a small boy, in the buoyancy of sport, and lacking the intelligence and discretion of older years, it was liable, in view of the fact that it knew that children of his class were in the habit of venturing in dangerous proximity to its negligently kept wires. The place where the boy met his death was one of those denominated in the books "attractive nuisances," the keepers of which, according to those decisions which we regard as the sounder exposition of the law, are liable to one who, without inculpating fault on his part, is injured thereby. It is true the company did not maintain the bridge and the railing and the elevation above ground, constituting an attractive climbing place for boys, and it may be that its wires were not themselves attractive playthings for the boys, but it maintained them in such immediate proximity to that which was attractive as to constitute them an integral part of the whole. It put its wires within the attractive environment. It identified itself in that way with the attractive place. If one maintains a dangerous instrumentality on his own premises, immediately against the premises of another, and within the sphere of the attractive influence of something on the latter, and a third one, venturing on the latter, is injured by coming in contact with the former, he would seem entitled to recovery; that is, assuming the necessary knowledge to charge the derelict party. The electric company had knowledge in this case. The principle applicable to this case has been several times declared in this State. It was done in the recent cases of Price v. Water Co., 58 Kan. 551, 50 Pac. 450, 62 Am. St. Rep. 625, and Biggs v. Barb Wire Co., 60 Kan. 217, 5 Pac. 4, 44 L. R. A. 655. The subject has been thoughtfully considered in the second edition of Thompson on Negligence (volume 1), under the head of "Injuries to Children from Defects in Premises," beginning with section 1024.

It is immaterial that the viaduct railing and its elevation above ground may not have been dangerous. They probably were, but for reasons peculiar to themselves. The boy did not come to his death because of dangers incident to the mere act of climbing. Nor is it material that the company's wires were not attractive. The attractions of the viaduct railing as a place for sport, and the defectively insulated wires, as instrumentalities of danger, were united together as a whole. We assume that the city is not liable, but, if it were charged with liability, it would be no answer to it to say it did not furnish the element of danger. It would be sufficient to reply that it furnished the attraction to entice into danger. When the company answers that it did not furnish the attraction, it is sufficient to reply that it furnished the danger to combine with the attraction. It could have neutralized the harmful ingredient of attractiveness in the compound by guarding against the danger, and to require it to do so is not to impose upon it any greater burden than though it were responsible for both hurtful constituents.

PROMPT REMITTING.

William C. Sprague, editor of the "American Legal News," who has been writing a series of articles on "How to Build Up a Successful Commercial Law Business in Towns of Less than 10,000 Population," has recently discussed the question of prompt remitting by the collection attorney in a way which merits attention. Inter alia, he says:

"Various and many are the excuses given by lawyers for the withholding of funds from the client's hands. The lawyer has really argued himself sometimes into the idea that he is entitled to hold the funds for some of these excuses which to the plain, common sense of the ordinary man are frivolous and weak. There is the oft-repeated excuse that the attorney is transacting other business for the client and that he has been waiting for the transaction of this business in order to report on all matters. The attorney has two or three collections in his hands from the same client. He realizes on one and the others are in process. He holds on to the money received from one with the excuse that he is expecting to get in the remainder and that he will make one remittance. There is also the very feeble excuse that the lawyer has been busy, too busy to remit; that the money is safe and sure to reach the client; that he is perfectly responsible and that there is no need of worry. The client is taken to task for calling attention to the lawyer's lack of business promptness and assured that his suspicions are all groundless. Then there is the man who withholds money because he needs the money himself, and when taken to task about it calls up an unsettled account against the client and says that he has been holding the money on the ground that in the general balance of accounts between the attorney and the client it is doubtful whether anything is due the client. Then there is, of course, the man who holds the money because he needs it and has no other excuse."

A PARTNERSHIP IN CRIME.

In the Court of Exchequer there is (says the Westminster Gazette) a very remarkable writ. It was filed on October 3, 1725, by John Everit against Joseph Williams. The statement of claim is a very lengthy one; it sets forth the fact with much clearness that both men were highway robbers, and that a partnership existed between them for the purpose of carrying on business as highwaymen. The partnership terminated within one year of its inception. Everit sued his partner for £1,000, "being for moneys wrongfully appropriated to defendant's private purse." The action was adjudged to be a gross contempt of court, and the plaintiff was ordered to pay all the costs, while the solicitors who served the writ were fined £50 each; one of the solicitors, a man named Wreathcock, refused to pay the fine, and was sent to prison for six months. Both the plaintiff and the defendant were subsequently hanged, one at Tyburn and the other at Maidstone.

The Practical Operation of the Bankruptcy Law.

By E. C. Brandenburg, Department of Justice, Washington, D. C.

(A report submitted to the Attorney-General of the United States for the year ending September 30, 1902.)

VOLUNTARY CASES.

The grand total of voluntary petitions in bankruptcy filed throughout the United States for the year ending September 30, 1902, was 16,374, this being made up of 9,052 cases filed during the six months ending March 31, 1902, and 7,322 filed during the last six months, showing a material decrease in the number of petitions filed from that of the year ending September 30, 1901, and, in fact, considerably less than during any previous year of the existence of this law. For the year ending September 30, 1899, the total number of voluntary petitions filed was 19,176; for the year 1900, 20,128; for the year 1901, 17,015.

The States showing the largest number of cases filed during the year are as follows:

New York, 432 peittions in the northern district; 811 petitions in the southern district; 247 petitions in the eastern district, and 416 petitions in the western district, making a total of 1,906 for the State.

Illinois, with 1,650 petitions in the northern district and 164 in the southern district, making a total of 1,814 petitions for the State.

Alabama, with 1,108 petitions in the northern district; 279 in the middle and 49 in the southern, making a total of 1,436 petitions for the State.

Massachusetts, with 1,408 petitions.

Maine 860 petitions.

Ohio, 422 petitions in the northern district, and 348 in the southern, making a total of 770 for the State.

In this connection it is interesting to note that in the last report Illinois leads the list of States showing the largest number of petitions filed during the year, having had 2,266 petitions, while New York followed with 2,187 petitions. Massachusetts was third in that list and Alabama fourth. Iowa was also included in that list and had a maximum of 701 petitions for the State, while this year the maximum is 625 petitions.

The States showing the smallest number of voluntary petitions filed during the year were the following:

Alaska, 1, with report for first six months missing; Arizona, New Mexico and Porto Rico, each 6; Nevada, 7; Hawaii, 11; Delaware, 20; Idaho, 29; Oklahoma, 36; Florida, 45; and District of Columbia, 47.

From the clerks' reports it also appears that of the voluntary cases all of the petitioners were adjudged bankrupts, except 403, in which the petitions for various causes were dismissed, while discharges were refused in fifty-two cases. It also appears that compositions were entered into and confirmed in 147 cases.

LIABILITIES AND ASSETS.

The total net assets realized in 13,288 voluntary cases closed during the year were $7,447,803.91; while the liabilities involved therein were $183,060,341.11. The summary also discloses the fact that of the cases closed there were 7,010 with assets of various amounts, in 4,383 of which they were less than $500, while in 6,278 proceedings there were no assets. This demonstrates the fact that advantage of the law, as a rule, is only taken in cases where the debtor has become almost hopelessly insolvent.

NATURE OF BUSINESS.

The reports also show that of those who went into voluntary bankruptcy 1,320 were farmers, 6,859 wage earners, 2,583 merchants, 235 manufacturers, 531 professional men, and 1,758 contractors, hotel and saloon keepers, real estate men and others of a miscellaneous character.

INVOLUNTARY PETITIONS.

During the year 2,108 petitions in behalf of creditors to have debtors adjudged bankrupt for committing various acts of bankruptcy were filed throughout the United States, of which 302 proceedings were dismissed, either because the court was without jurisdiction or because no act of bankruptcy had been committed. Of the involuntary proceedings compositions were entered into and confirmed in 125 cases.

NATURE OF BUSINESS.

An effort was made to obtain information of the occupation of the parties against whom involuntary petitions were filed, and so far as reports were made it shows that 542 engaged in mercantile pursuits, 87 were manufacturers, 8 professional men, 164 of a miscellaneous character. The report also shows that in eight cases the occupations were alleged to have been farmers, and in sixty-five wage earners, but, as under the law, neither a farmer nor a wage-earner can be adjudged an involuntary bankrupt, it is presumed that these parties were engaged in such occupations at the time the petitions were filed, but such was not their principal occupation.

LIABILITIES AND ASSETS.

In 874 voluntary proceedings which were closed during the year it appears that the assets realized amounted to $3,436,662, while the liabilities were $15,086,206. In other words, the assets were about 23 per cent. of the liabilities. In 105 cases there were no assets; in 153 cases they were less than $500, while in the balance they exceeded this amount.

FEES AND EXPENSES.

As heretofore, an effort was made to obtain data showing the expenses incident to the prosecution of cases under the bankruptcy law, but owing to the varying methods of keeping accounts and the varying charges that may be taxed in the different States, pursuant to the rules promulgated in the different courts, it has been almost impossible to obtain data in this respect of any particular value. A careful inspection of the various reports, however, shows the fact that these costs are reduced to a minimum, and consequently a larger percentage is paid on claims filed than would be the case in the absence of the bankruptcy law under the various State laws, and the creditors the accordingly benefited thereby laws, and the creditors are accordingly beneted thereby.

THE PRACTICAL OPERATION OF THE LAW.

four years we are now beginning to be in a position where something definite can be stated as to its practical operation. It was anticipated when the law was enacted th abnormally large number of petitions being filed for the fir few years of its operation were in behalf of persons who wer hopelessly insolvent and who took the opportunity afforde of being relieved of the burden of financial adversity an restored to business activity. Thus there were filed in roun numbers something over 19,000 voluntary petitions durin the year ending September 30, 1899; 20,000 in the year en ing September 30, 1900; 17,000 in the year ending Septembe 30, 1901, and during the past year but 16,374. There is, there fore, a material decrease in the number of persons takin advantage of the law, and which may be attributed to tw causes; first, to the era of business prosperity now prevai ing, and secondly because the large number of those oppresse by misfortune that had overtaken them during the financia disturbances of 1892 and 1893, and since the repeal of the pric law in 1878, sought relief by availing themselves of the ad vantage afforded and went into voluntary liquidation. Th number now filing petitions is presumably about the norma of those who would in the absence of a federal law on th subject seek relief under the State insolvency laws.

While the ideal bankruptcy law is based upon pri ciples of humanity, and it was doubtless this which largel actuated the framers of the Constitution in expressly autho izing Congress to enact a uniform law on the subject o bankruptcy throughout the United States, nevertheless i stances do occur where unworthy individuals escape dete tion and reap its advantages; while this is true, the absenc of a bankruptcy law should be no guaranty that fraud woul not be perpetuated under the State insolvency laws, sinc under the liberal provisions of many of the latter laws th opportunity for fraud and the difficulty of detection would b greater than under the Federal statute. While the earlier i solvency laws went upon the hypothesis that the bankru was a criminal, this is no longer true. It is presumed, there fore, that among this large number of insolvents who hav been relieved of past obligations there are many worthy an useful citizens restored to business activity who have heret fore been deprived of the opportunity of engaging in mercan tile pursuits in their own behalf. While the law has thu operated to restore the credit of many worthy individuals i is possible, of course, that there are cases where partie have unworthily received its benefits, but it is not possibl to make any law that will entirely prevent fraud, though i may be safely said that the opportunities in this respect, unde the present law, are reduced to a minimum. Under the exis ing statute provision is made by which the bankrupt, his rela tives and others, who are in anywise connected with th bankrupt's business, may be subjected to examination, wit the result that many are deterred from making fraudulent con veyances or preferences or concealment of their assets, whil in other cases the examination provided by law has resulte in the disclosure of interests and assets of the bankrupt whic ultimately resulted to the benefit of the creditors of th estate. Under many of the State laws this feature is wantin

Notwithstanding criticisms of minor provisions of th present law, as a whole it is greatly preferred by the com mercial interests to the diverse State statutes on the questio of insolvency which vary with the number of States.

During the past year there was introduced into the Hous by Hon. George W. Ray, chairman of the Judiciary Committe Bill No. 13,679, embodying various amendments to the la to meet criticisms of such provisions as the practical opera tion has demonstrated to be necessary. This bill was pr pared after an extensive canvass of business interest throughout the United States, as well as of the numerou referees in bankruptcy who are actively engaged in the ad ministration of the law, with the result that the Ray bill, a it is called, is a substantial crystallization of the views an

opinions of those who are most vitally interested or concerned. This bill, after careful consideration by the House, was on June 17, 1902, passed by a vote of 137 to 66 and is now pending before the Senate. It is perhaps unnecessary to refer in detail to the provisions of this bill, but it may be safely said that it meets with general approval and removes several features which are objectionable as the law now stands, notably that which requires a creditor to surrender payments received on account prior to permitting him to prove his claim for the balance, as the Supreme Court of the United States in Carson, Pirie, Scott & Co., said should be done under section 57g of the law; it also authorizes suit by trustees and others in bankruptcy matters in the Federal courts, and thus furnishes the expedition in the settlement of insolvents' estates, which is vitally necessary in proper administration, which amendment is necessary by reason of the interpretation of the Supreme Court in the case of Bardes v. Bank, of section 11 of the law, and thirdly, it prevents a person who has been once adjudged a bankrupt from again filing his petition for a period of six years. There are numerous other minor provisions which have been perfected in order to protect the interests of the commercial world, and as a result it may be said that with its enactment the United States will have a law with reference to the settlement of estates of insolvents that will be the equal of that upon the statute books of any nation.

Government by Injunction.

By John W. Shartel, of Oklahoma City.

(Address delivered before the Oklahoma Bar Association.)

Should I subdivide my text, "So-Called Government by Injunction," into heads like a sermon, I should say: First: We have got; second: We have always had; third: We cannot get rid of it, and fourth: It is no use to kick. The world was started on that plan; the parents of our race concurrently with their advent were enjoined from eating the fruit of a certain tree. The injunction was not respected, the race has been in contempt even since, and a mandatory injunction was issued to eject them from their claim, in which we have a fitting revivor in Star v. During. Of the Ten Commandments, I will speak no further—they have already been explained to us this morning. Nine of them are injunctions and only one is mandatory. Almost the first word the child learns is "don't." Society, whether crude or civilized, derives its very existence from restraints created from within or imposed from without. The thing is a part of nature, whether viewed from the standpoint of physical or from the standpoint of social law. The remedy of injunction by its ordinary application in our jurisprudence demonstrates its own wholesomeness beyond the need of encomium. It is therefore not the part of this paper to discuss the merits of the remedy in general, but to deal with the subject in the aspect of the application of the remedy in cases of controversy between an employer and employee as involved in strikes, boycotts, riots, and the like, which have attained some prominence in the politics of the country and through that channel dubbed "Government by Injunction," and to make a brief examination of the principles which may be said to be fairly established by the declaration of the courts in two aspects. First, have the courts made any radical departure from established principles of equity jurisprudence; and second, are there any special needs from a social or legislative standpoint that the doctrine of the courts should be modified or repressed by legislation?

It has been suggested that it is the privilege of a lawyer who gets soaked to cuss the judge in private and sometimes in public. It might be suggested with equal truth that it has been the privilege of the American citizen in private conversation, or in public places, to criticise, and sometimes very seriously condemn the judicial decisions of the judges of the country, where they attain any degree of prominence, or in which the social interests of the country are involved. No important principle was ever announced by the Supreme Court of the United States, involving some important question of constitutional authority, that has not been under the ban of popular condemnation, which might not involve the whole people, or might involve a yart. Almost from the inception of this government, criticism of that kind has been rampant. Take the case of Grebble v. ————, wherein a chief justice decided that when the President had signed a commission to a justice of the peace and passed it to the Secretary of the Interior for approval, that it constituted a perfect appointment to the seat, and that there only remained for the Secretary to sign the commission and deliver it to the incumbent. No less a leading light in the constitutional law than Thomas Jefferson, both in his public speeches and private correspondence, characterizes that decision as revolutionary; at least in two of his private letters, characterizes the act of the chief justice as very little short of treason to this country.

Skipping a great many years, we come to the famous Dred Scott decision. One of the most important decisions in the history of this country in the final solution of the slavery question and in which the older members of the bar who live through those stirring times will remember, and will remember how they felt about it. They thought that the country was going to the bad and were convinced that the Supreme Court had sent it there. And yet, permit me to say right here, in behalf of that much traduced decision, and I can say it, by reason of my antecedents, by reason of my family all having been abolitionists, that that decision was right as a constitutional interpretation of constitutional liberty.

Another thing along this line, it is a great piece of good fortune for this country that our newspapers and popular sentiment is not the court of last resort. I simply cite these cases as illustrations of the fact, that when you take a collection of men of life training and experiments in the profession in the interpretation of our laws, men who have been selected for the place, the highest places in the judiciary on account of their known integrity and honor and skill. You put that aggregation of men into the consultation room and let them bring forth a deliberate judgment upon what is meet and when is law, under certain circumstances it is a sovereign good for the people of this country that the decision is final. It has been a constant struggle between the courts and popular sentiment, in this country, but as the time goes by the popular sentiment that condemns the decision soon learns to approve it, for they find that the courts are, ninety-nine times out of a hundred, right, and that popular sentiment may be once in a hundred right and the other ninety-nine wrong. Perhaps the case that has received the greatest measure of criticism

is the decision of Judges Taft and Ricks, in the United States Circuit Court for the Northern District of Ohio, in the year 1893. This was a suit brought by the Toledo, Ann Arbor and North Michigan Railway against the Pennsylvania Company and other companies to enjoin them from refusing to receive interstate shipments of freight. The plaintiff was at that time in trouble with the Brotherhood of Locomotive Engineers. The lines of railway sued claimed that they were unable to receive freight originating on the Toledo line, on account of its employees, who were members of the Brotherhood, refusing to handle the same. A mandatory injunction was granted against all the defendant railroads, their agents, servants and employees, restraining them from refusing to extend to the plaintiff railroad the facilities for exchange of business extended to all other railroads, and permit me to here pass for the moment the injunction question, and state that refusing to extend these facilities to the Toledo road was a violation of the interstate commerce act itself, which requires all railroads to receive from other connecting lines, which prohibits any discrimination in the receipt of freight in favor of one railroad against another, although they may insist upon unloading the car and transferring the goods from that car to one of their own, still they must receive and forward the goods. It is incumbent upon one railroad engaged in interstate commerce to receive goods tendered by a connecting line. The Toledo road was having trouble with the Brotherhood about a schedule of wages and the other connecting lines served this notice upon the Toledo road: "We cannot handle your stuff any more, because our locomotive engineers will strike if we attempt to handle it." This road then brought an injunction suit against the connecting roads to restrain them from refusing to accord to this (Toledo) road the same privileges that it gave to every other railroad. That far the right to injunction was plain and there was very little question made upon it. This injunction ran against the railroad company itself, all of its agents, servants and employees. This order of injunction was served on the division superintendent, in charge of the division in contact with the plaintiff's line and was by him communicated to all the engineers on his division. An affidavit was filed that the engineers had refused to comply with the order, and a rule was issued to show cause why they should not be attached for contempt. No prescribed period of employment of any of the engineers was involved in the case and their right to terminate their employment was not doubted. Four engineers were called with their engines to take out trains and their engines were coupled on to the trains ready to receive them when they were informed that the trains contained cars received from the Toledo road, and they at once surrendered their employment and refused to continue in the service of the company. Another engineer, however, was passing through the yards on a continuous run when he was ordered to pick up a Toledo & Ann Arbor car, which he refused to do, and instead of surrendering his employment he stood around there by his engine and refused to quit. In the course of four or five hours' delay a telegram from the chief of the Brotherhood of Locomotive Engineers was handed to him authorizing him to pick up this car, and he did so, resumed his run and continued in the service of the company. Judge Ricks held on the facts that the engineers who refused to start on their runs and promptly surrendered their employment were not guilty of contempt, but that the engineer who did refuse to comply with the order of the court and remained in his employment was guilty of contempt and was punished accordingly. There was no question but what the engineer who was adjudged in contempt was familiar with the orders of his employer, the same having been read to him during the period of his insubordination. Subsequently, on the third day of April, 1893, the case again came on for hearing before Circuit Court Judge Taft and District Judge Ricks, on an application for a temporary injunction against P. M. Arthur, chief of the Brotherhood of Locomotive Engineers, to restrain him from issuing, promulgating or continuing to enforce any rule or order of the Brotherhood commanding any of the employees of the defendants to refuse to handle freight from the plaintiff's line of an interstate character. It was admitted and proved on the trial that the power and influence of the chief of the Brotherhood is supreme and its disobedience subjects any member to expulsion, that he can either order a strike or a boycott and exact the most implicit obedience of the members, under the penalty of expulsion from the Brotherhood. The temporary injunction prayed for against Arthur was allowed, and allowed on the theory that under the express provision of the interstate commerce law, as well as under the principles of the general law, the defendants, as common carriers, had no right to refuse to receive freights tendered by the complainant. And from the authorities cited there can be no doubt that this principle is sound and had been applied by both Federal and State courts with great frequency in previous controversies, which involved nothing but attempts on the part of one railroad company to discriminate against the freights from another company. From these premises we can correctly reason to the second—that an injunction against a principle may still run to its agents and servants and no part of the law of this subject is of more frequent application, and the offending servant with knowledge of the injunction will be as guilty as the master. I do not think it necessary to say, before an audience of lawyers, that the power of the injunction would be utterly destroyed if the injunction should run against nobody but the corporation; it must extend to all the servants and employees, otherwise it would be wholly ineffective. And in so far as the punishment of the engineer who refuses to handle the freights of the complainant without first severing his relations with the defendant, it is hard to perceive where he would be in any different attitude with respect to having been in contempt of the court than if he had, instead of merely being a locomotive engineer, been the president of the road; they both constitute a part of the enjoined company and the restraint of the injunction operated over both alike during the continuance of their relations. But what shall we say with respect to the temporary injunction allowed against Arthur; his power of command as chief of the Brotherhood was supreme in theory and effective in fact; his command of the engineers employed by the Pennsylvania company not to receive nor draw a car offered by the offending company which was in trouble with its employees, as a means of coercing that company to a settlement with its employees, was more potent than that of the employer of those men. He asked those men to force their employer to the violation of a direct duty and imposed upon it by law, and wielding all the power of an effective combination or organization to influence their judgment and control their wills. The Pennsylvania company employees had no grievance. It seems to me that the language of Judge Taft and the authorities cited in his opinion is stronger than any defense that can be made of it; and that now, far removed from the exciting event and in our cool professional judgment, it stands as a monument of wisdom and bears evidence of a great decision.

Arthur's order, if issued, will be obeyed because the penalty of disobedience is expulsion from the Brotherhood. The many engineers who serve the defendant companies will refuse to handle the complainant's freight. The defendant companies will probably be coerced thereby to refuse the complainant's freight, for the bill avers that they have threatened to do so. The interstate business of complainant will be interrupted with at every hour of the day and at every point within a radius of many miles, and all because of Arthur's order. The injury will be irreparable and a judgment for damages at law will be wholly inadequate. The authorities leave no doubt that in such a case an injunction will issue against

the stranger who thus intermeddles and harrasses complainant's business. In Sherry against Perkins, 147 Mass. 212, the officers of a trade union were enjoined by the Supreme Court of Massachusetts from displaying in front of plaintiff's premises a banner announcing a strike and requesting workmen to stay away. This was said to cause an injury of such a continuing character as to make it a nuisance. So in Spinning Company against Riley, L. R. 6 Eq., 551, a case presenting facts exactly like those in Sherry vs. Perkins an injunction was allowed. In Casye against Typographical Union, 45 Federal Reports, 135, Judge Sage granted an injunction against the members of a typographical union who had instituted a boycott against a newspaper, and who were attempting to drive away business from it by threatening its subscribers and advertisers to boycott them in case they continued their patronage. In Amack against Kane, 34 Federal Reports, 47, Judge Blodgett granted an injunction against persons who, by threatening infringement suits, without any intention of bringing them, were attempting to interfere with plaintiff's enjoyment of his lawful patent. And in Coeur d'Alene Mining Company against Miners' Union, 51 Federal Reports, 250, Judge Batty enjoined the member of a union from intimidating plaintiff's workmen and thereby preventing them from continuing in its employ. Arthur's proposed invasion of the complainant's rights in the means to be employed and the character of the injury intended is quite like the wrong enjoined in the cases just cited. It would seem from the foregoing authorities that we may enjoin Arthur from directing the engineers to quit work for the purpose of coercing the defendant companies to violate the law and complainant's rights. Though we cannot enjoin the engineers from unlawfully quitting, it does not follow that we may not enjoin Arthur from ordering them to do so. An injunction in this form, however, has not been asked, and we need not decide the question. The rule that equity will not enjoin a crime has here no application. The authorities where the rule is thus stated are cases where the injury about to be caused was to the public alone, and where the only remedy therefor was by criminal proceedings. When any irreparable and continuing unlawful injury is threatened to private property and business rights, equity will generally enjoin on behalf of the person whose rights are to be invaded, even though an indictment on behalf of the public will also lie. See the cases cited in section 20 of High on Injunctions. We have thus far considered the right of the complainant to an injunction in an independent suit against Arthur. But the case as presented to this court is far stronger. Here a mandatory writ was actually issued against the defendant railroad company and their employees restraining them from refusing to interchange with complainant interstate freight. Subsequently Arthur was made a defendant by amendment to the bill, which advised the court that he was the chief of an unlawful conspiracy to injure the complainant by destroying its interstate business, had just issued or was about to issue an order to the engineer in the employ of the defendant companies not to handle complainant's freight, and that if issued, Arthur's order was more likely to be obeyed than the injunction of the court then in force. It is possible that in such a case a court of equity must remit the complainant to an action at law for the injuries which Arthur's unnatural order will certainly cause, and that the court must await in silence the defeat of its own injunction. The putting of the question answers it. It is the duty of the court promptly to prevent at all hazards the probable destruction of its main injunction by auxiliary injunctive process, and if such obstruction has actually been imposed to remove it by the same means. In that well remembered strike in Chicago, which arose out of a difficulty between the Pullman Car Company and the American Railway Union, of which Eugene Debs was president, over a schedule of wages, all the railroads were ordered not to move Pullman cars and the employees were ordered to strike in case they did. Upon refusal to comply with the order the employees struck, and in replacing the strikers, which was done very quickly, mob violence arose. An injunction was granted, and in the trial they were found guilty of contempt and punished. At that time, and I am not certain, but I believe it is so yet, the punishment for contempt in the courts before the final decision is not considered a final order.

Mr Justice Holmes---A Judge With Imagination.

By Mitchell D. Follansbee, of the Chicago Bar.

(An Address Read Before the Legal Club of the City of Chica go, November 10, 1902.)

It may be unbecoming in one who, because of his lack of knowledge of the basic principles of the common law, can never quite share the enthusiasms of the scholar, and because of civil life knows nothing of the romantic figures of the war, to attempt a portrait of the chief justice of Massachusetts. It is always daring for layman, lawyer or judge to criticise the members of that bench, for even to the wayfaring man it has a sentiment and a tradition. The strong features of the chief justices, from Lemuel Shaw to Walbridge A. Field and Oliver Wendell Holmes, look out of the canvas, and lead him to wonder whether the average lawyer has in common with them anything more than the name of a profession.

It has often been said that Massachusetts never had a chief justice who was not worthy of a place on our chief national tribunal. Very likely that is so. The Commonwealth has been a leader in legal education; in the hearts of her sons is implanted a sincere love of liberty; one of her heritages is a sense, fairly well distributed, of personal righteousness; and her people who have lived in her confines by right—that is, the people whose ancestors have lived there for a long time—have never quite freed themselves from the zeal of the Pilgrim Fathers, or effaced the Puritan with his cold passion for duty. Four sons of Massachusetts have been on the United States Supreme bench. William Cushing was a member of the first court, and served for twenty-one years. Twelve months after he left, Joseph Story was appointed, and from 1811 to 1845 put his imprint on American jurisprudence. Benjamin Curtis, appointed in 1851, served six years. In 1881, Horace Gray took a seat, rounded out a score of years and a little more; and now the President has nominated Oliver Wendell Holmes. These names are all famous outside of Massachusetts, and if there is anything in memory and association, the wayfaring man, mentioned above, should be more than usually awed.

The facts surrounding the ancestry and life of this latest nominee are well known. Victor Hugo said that the only way to reform a boy was to begin with his grandmother, and he might just as truly have added grandfather. Justice Holmes' grandfather was Abiel Holmes, who was for forty years minister of the First Church in Cambridge, and married a

daughter of Oliver Wendell, of Boston, the son of Jacob Wendell, an eminent Boston merchant. The mother of Justice Holmes was a daughter of Charles Jackson, a justice of the Supreme Judicial Court of Massachusetts from 1813 to 1824. Seventeen years after that, Dr. Oliver Wendell Holmes, his son-in-law, became the father of his namesake—the justice.

So the justice comes from that Brahmin stock of New England—the kind of people who are given to high thoughts and moral and spiritual aspirations—people who are gently nurtured, and take a quiet delight in excellent red wine. They have modesty of demeanor, accompanied often by a lack of tact; but at their best they have something of the spirit of Thomas Shepard, the first minister of the church at Cambridge of whom Cotton Mather said: "So the character of his daily conversation was a trembling walk with God." They have an intense love for truth. "Veritas" on the shield of Harvard College is more than a word from a dead language to them. They keep certain ideals about not compromising their honor, and how it is finer to lose fairly than to win by tricks—a state of mind which manifests itself in certain football players who lose none of their philosophy in losing the game, some excellent gentlemen who are anti-imperialists, and judges who are able to use very courteous language in dissenting from their colleagues on the bench.

Justice Holmes, as a boy, was educated at a private Latin school, and then did the least thing that a Boston man can do—attended Harvard College for four years. In 1861—before his graduation—he enlisted in the Fourth Battalion of the Twelfth Regiment of Infantry, under Major Thomas G. Stephenson. He sent his class poem from Fort Independence. October found him at Ball's Bluff, wounded in the breast. He was a captain at Antietam, where he was wounded through the neck. His father went in search for him, and wrote about his experiences in "My Hunt After the Captain." He recovered and was again wounded at Fredericksburg. In 1864 he was made aidecamp to Brigadier-General Wright, and later he was mustered out as brevet lieutenant colonel.

Almost two score years of quiet life as a civilian have not taken from him the courageous spirit of the soldier. For him life has continued to be a battle, and with charming modesty he often speaks of those three years between his college and school. They gave the student a sense of discipline and duty as practical as life and as poetical as death. He came to feel that life was action and passion, and that it was required of a man that he should share the action and passion of his time at the peril of being judged not to have lived. He struck the note of Emerson:

> "Though reason chafe and love repine
> There comes a voice without reply,
> 'Tis man's perdition to be safe
> When for the truth he ought to die."

The justice is a spiritual kinsman of the transcendentalist He had reached a point where law might be a rule of action, but a rule to be modified by the romantic elements of passion and daring endeavor.

Twenty years after his graduation he gave his idea of the college attitude: "What, then, did the college do to justify our speaking of the war now? She sent a few gentlemen into the field, who died there becomingly. I know of nothing more." And again: "After history has done its best to fix men's thoughts upon strategy and finance, their eyes have turned and rested on some single romantic figure—some Sidney, some Falkland, some Wolfe, some Montcalm, some Shaw. This is that little touch of the superfluous which is necessary. Necessary as art is necessary, and knowledge which serves no mechanical end. Superfluous only as glory is superfluous or as a bit of red ribbon that a man would die to win." Elsewhere he speaks of the tablets on Memorial Hall as a "symbol of man's destiny and power for duty, but a symbol also of that something more by which duty is swallowed up in generosity, that something more which led men like Shaw to toss life and hope like a flower before the feet of their country and their cause." And at the recent dinner given in his honor by the Chicago Bar Association, echoing the sentiments of youth, he declared that for him "the fight is joy, and I long shall hear the trump of your cheers."

When Colonel Holmes entered the Harvard Law School in 1864, the dean of the school was Professor Parker, the ex-chief justice of New Hampshire—one of the greatest of American judges; and his associates were Theophilus Parsons, the eminent practitioner and legal writer, and Emory Washburn, who had lately been Governor of the Commonwealth, and were now generously imparting his wisdom and enthusiasm to the students of the famous school. It was not the Harvard Law School of to-day. Three men of practical experience lectured. A degree was given without examinations, at the end of three terms of residence, or a year and a half. The case system had not been discovered, and if a student wished to go beyond the lectures he was taken back to Fearne and Preston and Shepard's Touchstone, rather than to the reported cases.

And so, unless Justice Holmes had been more than usually industrious, he would have had no better training in the science of the law than has the student at the average law school of to-day. Later, he studied in one or two offices in Boston; traveled a bit—to Europe and Chicago—gave some lectures on constitutional law at Harvard, and still later was made the university lecturer on jurisprudence. For three years he was sole editor of the American Law Review, and in 1880 he delivered a course of lectures before the Lowell Institute of Boston on the subject of the common law.

These lectures were collected and published in 1881 under the title of "The Common Law," and then for the first time widespread attention was attracted to the young lawyer. The London "Spectator" characterized the collection as the "most original work of legal speculation which has appeared in English since the publication of Henry Maine's Ancient Law." The volume has so secure a place among lawyers and students and is so little known and so little appreciated by those who live outside of the profession that a discussion of it here would be idle; but every one who has read it knows, and those who have read about it know likewise, that it shows an exceptional grasp and comprehension of the basic principles of the English common law and of the history of those principles as affected by changing and shifting circumstances, and modified by this or that court (sometimes rightly and sometimes wrongly), and that the work is not only complete, but about the first plea on this side of the water for thoroughly scientific scholarship in the law. No man could have written it who had not been a student, and the number of articles that Justice Holmes wrote for the "Law Review," and the work that he did editing the "Twelfth Edition of Kent's Commentaries," show that the soldier of enthusiasm and ardor had in seventeen years become the student in a relentless, daring and unceasing search for truth.

Honors come rapidly; his work was praised; he was recognized as a coming man of attainments. In 1882 he was appointed to a new professorship at the Law School. In December of the same year he was nominated by Governor Long to a member of the Supreme Bench. He took his seat on the third of January, 1893, and is now completing his twentieth year of service. All doubts as to whether a man of such profound philosophical instinct and scholarly attainments in common law could get down and discharge the practical duties of the bench were completely removed by his long services on the bench. He was now forty-one years old, a man who, because it was the perfectly natural thing for him to do, had grown to be a dignified gentleman with a subtle skill in phrases and a strength in scholarly grasp of legal principles

When the chief justice took his seat, the genial autocrat was still in active professional life, and had become universally known and beloved as a man of letters, whose main business in life was the teaching of young men in the medical school. In the twenty years since then the name Oliver Wendell Holmes has, of course, still been associated primarily with the autocrat, but it has also meant to lawyers and to a large share of the community at large, the tall, gaunt, unusually solemn man of keen intellect, imperious will and tender heart, who combines the qualities of the poet, the scientist and the cosmopolite, who inherits the wit and humor of his father, and from his ancestors on his mother's side qualities which are strenuous and stoical. If it did not seem irrelevant, one might almost say with Horace: "Pater sapiens sed filius sapientior."

The first impression that the justice makes on the lazy man is one of wonderful industry. In that is shown his earnestness and his almost utter devotion to his judicial duties. Therein he resembles the late Justice Gray. Living in Boston and working at the State House, he seldom goes to the weekly dinners of the Saturday Club—that organization of rich recollection and rare spirits. He seldom sees even his most intimate friends. Until a few weeks ago, when he went to Chicago as a guest of the Northwestern University and the Bar Association, he had traveled but little about this country; and the time that he stays away from social diversion is carefully employed in his work.

The judges of the Supreme Judicial Court in Massachusetts sit at nisi prius, as well as sitting en banc as an appellate tribunal. Each man travels about the State from Barnsport to Northampton; but outside of that work at nisi prius, Justice Holmes, during his first year on the bench, handed down forty-seven opinions. During the last year there are one hundred and twenty which bear his name. Possibly an average can be struck between these. One should not be misunderstood as claiming that the industry of the judge can be measured alone by the number of opinions he hands down. Certain decisions could be quoted against this contention; but when one takes into account the care and thought and constant strain after the absolutely correct principles of law, two opinions a week, outside of trial work, show that a man is not staying on the bench because he likes vacations.

These fifteen hundred or two thousand opinions are what we have, then, on which to base an estimate of the judicial ability of the new nominee; and remembering Justice Bradley's definition of the requisite qualities of the great judge—namely, moral sense, brains, learning, tact and experience—it remains for us to speculate, taking the data of the past, on his probable future judicial career. In reviewing those decisions it must be borne in mind that the justice has always looked upon the law as a subject for scientific study and development. He believes a strict classification of the law is impossible except on the basis of the ultimate conception of duty instead of the derivative notions of right which are the foundation of existing systems, and his constant effort has been to make his judicial decisions harmonize as far as possible with ultimate scientific principles. In 1899, addressing the New York State Bar Association, he spoke as follows:

"I have tried to show by examples something of the interest of science as applied to the law, and to point out some possible improvement in our way of approaching practical questions in the same sphere. To the latter attempt, no doubt, many will hardly be ready to yield me their assent. But in that field, as in the other, I have had in mind an ultimate dependence upon science because it is finally for science to determine, so far as it can, the relative worth of our different social ends, and, as I have tried to hint, it is our estimate of the proportion between these, how often blind and unconscious, that leads us to allow another gradually to dwindle into atrophy. Very likely it may be that with all the help that statistics and every modern appliance can bring us there never will be a commonwealth in which science is everywhere supreme. But it is an ideal, and without ideals what is life worth? They furnish us our perspectives and open glimpses of the infinite. It often is a merit in an ideal to be unattainable. Its being so keeps forever before us something more to be done, and saves us from the ennui of a monotonous perfection. At the least it glorifies dull details and uplifts and sustains weary years of toil."

Not two years before, in dedicating the new hall of Boston University Law School, he had this to say of theory:

"Theory is the most important part of the dogma of law, as the architect is the most important man who takes part in the building of a house. The most important improvements in the last twenty-five years are improvements in theory. It is not to be feared as unpractical, for, to the competent, it simply means going to the bottom of the subject. To the incompetent, it sometimes is true, as has been said, that an interest in general ideas means an absence of particular knowledge. I remember in army days reading of a youth who, being examined for the lowest grade and being asked a question about squadron drill, answered that he never had considered the evolutions of less than 10,000 men. But the weak and foolish must be left to their folly. The danger is that the able and practical minded should look with indifference or distrust upon the ideas of the connection of which with their business is remote. I heard a story the other day of a man who had a valet to whom he paid high wages, subject to deduction for faults. One of his deductions was 'for lack of imagination, $5.' The lack is not confined to valets. The object of ambition, power, generally presents itself nowadays in the form of money alone. Money is the most immediate form, and is a proper object of desire. 'The fortune,' said Rachel, 'is the measure of the intelligence.' That is a good text to waken people out of a fool's paradise. But, as Hegel says: 'It is in the end not the appetite, but the opinion which has to be satisfied.' To an imagination of any scope the most far-reaching form of power is not money, it is the command of ideas. If you want great examples, read Mr. Leslie Stephen's 'History of English Thought in the Eighteenth Century,' and see how a hundred years after Descartes' death his abstract speculations had become a practical force controlling the conduct of men. Read the works of the great German jurists, and see how much more the world is governed to-day by Kant than by Bonaparte. We cannot all be Descartes or Kant, but we all want happiness. And happiness, I am sure, from having known many successful men, cannot be won simply by being counsel for great corporations and having an income of fifty thousand dollars. An intellect great enough to win the prize needs other food besides success. The remoter and more general aspects of the law are those which give it universal interest. It is through them that you not only become a great master in your calling, but connect your subject with the universe and catch an echo of the infinite, a glimpse of its unfathomable process, a hint of the universal law."

Justice Holmes, after twenty years on the Supreme bench, with all the scholarship that he has acquired and the ambitions which he shows, with his ideals expressed in the words I have quoted, must feel some disappointment when he receives a promotion to find that he is best known by the dissenting opinion in a labor case wherein he upheld the right of picketing; yet that is the first and usually the last comment that was made by the newspapers when he was nominated. In his dissenting opinion Justice Holmes reviews certain recent cases of competition, and in language so simple that any layman could understand it, differentiates and states his conclusion:

"One of the eternal conflicts out of which life is made up is that between the effort of every man to get the most he can for his services and that of society disguised under the name of capital to get his services for the least possible return. Combination on the one side is potent and powerful; com-

bination on the other is the necessary and desirable counterpart if the battle is to be carried on in a fair and equal way."

And again:

"If it (picketing) is dissociated from their threat of violence and is made for the sole object of prevailing if possible in a contest with their employer about the rate of wages, the fact that the immediate object of the act by which the benefit to themselves is to be gained is to injure their antagonist, does not necessarily make it unlawful any more than when a great house lowers the price of goods for the purpose and with the effect of driving a smaller antagonist from the business."

Another opinion which attracted more than passing notice is that one in regard to the constitutionality of a proposed act of the Legislature to enable cities and towns to purchase, sell and distribute fuel. The justice finds that "the purpose is no less public when that article is wood or coal than when it is water or gas, or electricity or education, to say nothing of cases like the support of paupers or the taking of lands for railroads or public markets."

A third case where he also dissented was that wherein the justice was inclined to hold constitutional an act providing that no employer can impose a fine on an employee. There he says:

"I suppose that this act was passed because the operatives or some of them, thought that they often were cheated out of a part of their wages under false pretense that the work done by them was imperfect, and persuaded the Legislature that their view was true.

"If their view was true, I cannot doubt that the Legislature could deprive the employers of an honest tool which they were using for a dishonest purpose, and I cannot pronounce the legislation void, as based on a false assumption, since I know nothing about the matter one way or the other."

And this—people say—shows that Justice Holmes is not a strict constructionist. It is not, however, from a few dissenting opinions in isolated cases that one should form an opinion of the work of the judge. Running over his decisions, volume by volume, one is first struck with the clear English, which seems to be indigenous to Massachusetts. Through each contention the reader sees the independent thinker, who is confronted with the antinomy of which he often speaks, trying to work out a logical answer where the fundamental principles of law are marshalled on one side and the changing conditions of life confront him on the other. He begins his opinions without quoting the technical pleadings. He is very apt to say: "The only question if whether the owner of the note or draft can fill in his own name," and then discuss that question and answer it. In his style he reminds one of the late Lord Justice Bowen, of England; and reading these opinions, when the object of reading has no direct connection with any great question before the practitioner, seems to be like a bit of dissipation—an excursion into the field of literature, where the only motive is the pleasure that the reader takes as he goes along. He has the simpleness that appeals particularly to the lawyer, because it is expressed in commonplace terms, and a directness that seems to make a straight line from the rudimentary propositions of law to the complex facts of our present-day existence. The more one reads of what he has written in the cases Justice Holmes has decided, the more danger there is that one is tempted to regard the law not simply as a means of obtaining a living, but rather as a fine art to which scholarly gentlemen have given much thought.

Yet, with all this, it is whispered that some members of the Massachusetts bar are not entirely sorry they are losing their chief justice. They complain that he is too much of a scholar, too dogmatically logical, too quick to take an all-around view of a case. One man complained that in the argument of an important case, the chief justice kept saying: "But, sir, the comma is there; the comma is there." They say that he has not known the active work of the practitioner, and does not look at a case from that standpoint. His answer to this would probably be that his colleague, because he is a jury lawyer, might have prejudices that come from that association, from which he never will be wholly able to free himself. The prejudices of Justice Holmes, if any he has, are those gained from work in chambers where his courteous impatience had its birthplace.

(To be continued.)

Modern Methods for the Reformation of Criminals.

By Hon. J. Franklin Fort, Justice of the Supreme Court of New Jersey.

(Address delivered before the Society of Medical Jurisprudence, December 8, 1902.)

When shall it come to be accepted that punishment for crime is solely for the purpose of preventing future offenses, the introduction of remedial methods will become easy. The Supreme Court of Illinois declares that the object of punishment can be attained only in one of three ways:

1. By the amendment of the offender.

2. By deterring others through his example.

3. By depriving the guilty of the power to do further mischief. People vs. Reformatory, 148; Illinois, 413.

The first and last of these objects are the ones in which we are most interested in this discussion. With the deterrent effect of punishment which is the only relic of the old belief in the three objects as stated, we have little to do. If I were to discuss it at all, it would be to attempt to establish that it was no longer useful to send a man to prison for stealing a horse, in order that others may be prevented from stealing horses. When man gets to the state of mind in which he will steal horses, the fact that someone else has been punished for it, will have little, if any, influence upon his actions, and, for the man who has no impulse to steal, the fact of the punishment of another for so doing is utterly inconsequential.

To rightly get at the method of dealing with offenders, we must bring ourselves in position to see that it is not the man, but, rather, his mental, moral and social condition with which we have to deal. We shall attain more important results for good through efforts to prevent or overcome the evil effects of heredity, environment, and ignorance in man, than through

confining him for the consequences which flow therefrom. The great problem of penal reform is to be settled by the application of the homely adage, "An ounce of prevention is worth a pound of cure."

My paper is to consider "Modern Methods for the Reformation of Criminals." In the discussion I shall confine myself chiefly to probation and the indeterminate sentence—so called.

Mr. Havelock Ellis in his work on "The Criminal" tells us that there are five kinds of criminals—political, passional, insane, occasional and habitual or professional. The first of these we will not discuss, because a man who is a political criminal to-day is sometimes a patriot to-morrow; and the man who may be a political criminal to-day is in control of his government to-morrow; and there are times when it is patriotic to be a political criminal.

A passional criminal is one who, on the spur of the moment, incensed at some reflection upon his wife, sister, brother, or father, strikes the blow. He is not a wrong-doer. He has done merely that which his inborn nature taught him to do. Our law makes him a criminal, but he is not the kind of criminal that I propose to consider.

The insane criminal I will not mention, because I cannot conceive that he exists. Insanity and crime cannot go together. If a man is insane he is not responsible, and, hence, he is not a criminal and cannot be.

Occasional criminals are the class to which I propose to refer, together with habitual criminals. An occasional criminal is a man who now and then commits a crime, sometimes keeping on until, by and by, he graduates into the fifth and last class.

The criminal is here, and he has been with us in all the ages, and the question is, what are we to do with him, whether he be an occasional or an habitual criminal. Shall we imprison him? Shall we punish him? Well, yes, in some cases we should; but punishment, and punishment alone, never has prevented and never will prevent crime.

Different criminals must be differently treated. The man we are most interested in is the first offender, taken at the very beginning of crime. He may be brought there through hereditary influences, for which he is not responsible, and which came to him through the order of nature, but he stands on the threshold of crime and at the doorway of the penitentiary. That man at that point is the problem of the criminology of the age. What would you do with him? Would you put him in prison for a little while and then parole him? If not, what can you do? The only remedy that seems available is probation. Probation started in Massachusetts for juveniles about twenty years ago. They applied it to adults in 1891. Vermont followed two or three years after that. A few other States have adopted it in a modified way. New Jersey followed in 1900, and we adopted the most liberal law on the subject of probation that exists in any State in the Union. Our law is practically without restriction on the judge. It does not, however, apply to any who are not under an indictment or accusation for crime.

Probation, like anything else, is of no force and value unless the machinery that operates it be good. If it is turned over to manipulation, to political control, then it will be an utter failure. But if it is left in the hands of the judges and of men appointed by the judges, subject to instantaneous removal if they abuse it, then it is safe and invaluable.

The probation officer should be a man of high personal character, whose life and conversation are exemplary. If he be such a man he will mold largely the character of the men committed to his care.

Probation is simply parole before imprisonment. By our New Jersey statute the term of probation is fixed at three years. During that period the probationer is subject to be retaken without notice and to be sentenced to imprisonment by the judge. During these three years there is of necessity great self-discipline, enforced good habits and associations. There is a development of character along new and beneficial lines. Probation, of necessity, must be chiefly employed for the treatment of the juvenile and first adult offender. The possibilities for good to result from it are beyond estimation. Rightly applied it tends to the moral uplift and undoubted reformation of the probationer. Probation, of course, will not answer for many offenders, and the indeterminate sentence is the suggested treatment for the other classes.

Several States have adopted the indeterminate sentence in committing offenders to a part, if not all, of their penal institutions. New York, Massachusetts, Ohio, Illinois, Indiana, New Jersey, not to mention others, are among the number. The New Jersey act was adopted in 1901, and, as it is the latest expression of the form, or satutory declaration, of an indeterminate sentence, I will give it It reads: "The courts, in sentencing to the reformatory, shall not fix or limit the duration of sentence, but it shall not, in any case, exceed the maximum term provided by law for the crime for which the prisoner was convicted and sentenced and may be terminated by the managers of the reformatory, as herein provided." The act proceeds to give the managers power to make rules to release the prisoners on parole in accordance therewith; the prisoner to be in the custody of the managers, subject at any time to be recommitted to the reformatory for the violation of his parole; and, in case of retaking, the time out will not count on the term of service. It will be noticed that there is no required minimum term of sentence, as, I think, is found in all other States. In New Jersey, the power to discharge at any time after the prisoner is received or to hold for the maximum term of possible punishment, fixed for the offense of which the prisoner was convicted, is absolute.

This statute will raise all the legal and other questions so much discussed under this form of sentence. Is a statute which fixes a term of imprisonment, dependent upon the will of a body not judicial, constitutional under our triple form of government? I shall not enter into a long discussion of this question. All the State constitutions, I think, contain clauses in form about as follows: "Cruel and unusual punishments shall not be inflicted." "The Governor may remit fines and forfeitures and grant pardons after conviction in all cases except impeachment;" and the usual clauses of the division of governmental powers into legislative, executive, and judicial, with the clause that "the judicial power" shall be vested in certain named courts.

What punishment may, or shall be inflicted, always has been fixed by the legislative branch of government. True, it usually has left to the court, within certain fixed limits, the definite amount of the fine or term of imprisonment, but the contention that it must do so, hardly can be sustained. There is no decision coming within my observation, which holds that the legislature may not fix a definite and arbitrary penalty for every offense created by a statute, if it so wills. If it can require that the court fix and make certain that which is uncertain, and impose such penalty when so fixed, why may it not require the imposition of a definite sentence?

There is nothing cruel or unusual about a sentence to the penitentiary or reformatory for the maximum period, fixed in the statute for the offense of which the offender stands convicted. That always has been within the power of the court. When such a sentence was imposed under the old method, it was much more cruel than under the new. Now the offender may get out within a tenth of his term. Then, he must stay for the whole thereof.

Nor does the power of discharge at any time on parole conflict with the power of pardon. The two things are quite

different. The Supreme Court of Pennsylvania (A) has stated the difference clearly. It said: "Pardon operates directly upon the crime and only indirectly on the criminal." Pardon is not to let one free from prison; it is to wipe out the effect of a crime. But it is unnecessary to consider this question further. In all the States, except in Michigan (B), in which the constitutionality of this class of legislation has arisen, it has been sustained. Ohio (C), Indiana (D), Illinois (E), and Massachusetts (F) have passed upon it by their highest courts.

The opinion in Michigan was delivered in 1891. Only Ohio then had passed upon the question and its decision was by a divided court. In the light of events, the following extravagant language, taken from the opinion of the judge who spoke for the majority of the court in the Michigan case, is not without interest: "I have not," he says, "sufficient words at my command to use in condemnation of this statute. It would fill our State with convicts—they could not be called freemen—running at large outside our prison walls, all liable at any moment to be taken back inside, at the will of four individuals, no better, possibly, in their impulses and caprices than the average man." Reading this quotation only eleven years after it was uttered, it sounds almost ludicrous. The history of the parole law in Michigan, which they evidently have operated, irrespective of that decision, seems to refute every statement in that quotation. The Governor of that State, in 1898, advised me, through the prison authorities, that, up to that time, 128 prisoners had been paroled, and that, at that time, only fifteen still remained on parole and only nine had ever violated their parole—all the others had received honorable discharges. Of the nine, eight had been returned to prison, and one was in Ohio, serving a sentence for larceny. It would be difficult to find a more crushing rejoinder to the prediction of the Michigan court of the terrible consequences of permitting prisoners to be out under a parole law than these facts.

Up to this time, so far as I know, no State has applied the indeterminate sentence to persons confined in all of its penal institutions. Given the right conditions, and an impartial non-partisan tribunal to control discharges, I would favor its application to all offenders. I would go still a step farther. I would have neither the minimum nor the maximum term fixed by statute, and, possibly, not by the sentencing court. The proper way to cure those who are really criminals is as you cure other diseased persons—namely: Keep them under treatment until they are cured, or at least, so nearly cured, that they may be discharged safely.

We constantly hear the statement that criminals are on the increase. I do not think that it is true, but if it is, the legislatures are responsible for it, and, possibly, in some respects careless judges. Acts made crimes to-day are tenfold as many as they were at common law. Every legislature that meets, in any State, makes two or more new offenses crimes. Thousands of men are annually jailed, awaiting trial or otherwise, for offenses which are crimes simply because they are made, by statute mala prohibita, and which have nothing in them which is malum in se. They are not crimes arising from a bad heart or a criminal disposition. The confinement of such persons in prison, with the loss of self-respect entailed, the incidental disgrace, and, worse than all, the possible intercourse with professional criminals, leads them into real crime. No man committed for an offense which does not involve moral turpitude should ever be confined with a man tainted by a crime that does.

(A.) Commonwealth v. Halloway, 42 Pa. St., 448.
(B.) People v. Cumings, 88 Michigan, 249.
C.) Peters v. State, 43 Ohio, 629.
(D.) Miller v. State, 149 Indiana, 607.
(E.) People v. Reformatory, 148 Illinois, 413.
" Genge v. People, 167 Illinois, 447.
(F.) Conlon's Case, 148 Massachusetts, 168.
" Commonwealth v. Brown, 167 Massachusetts, 144.

It seems to me that the indeterminate sentence should apply to the habitual criminal, for many reasons. If it is true that criminal tendencies are hereditary, that contact with the criminal induces others to enter the life; if it be true that his moral nature is diseased and that his criminal tendencies are uncontrollable—and many expert scientists so teach in these days—then why let him be at large at all? The State has as much right to protect itself from the criminal as from the dangerous insane. A confirmed criminal should not be permitted to perpetuate his species, to contaminate his fellows, or to go abroad while his moral nature, irresistibly or pervertedly, leads to depredations upon society. Such an one should be confined until cured, or apparently cured, and then only discharged, under parole, with power to retake him upon a relapse into crime, and hence, a violation of the conditions of his parole.

Probation and indeterminate sentence for first or youthful offenders is past the experimental stage, and is, in several States, a fixed policy. It is only a matter of time when it will be so in all. A reform of this sort, which proves successful in operation, is irresistible, and will, ultimately, by its own force, extend to all the States. As the indeterminate sentence system extends, and is enlarged, it will, I fear, be found that uniform methods of discharge under it will be demanded. A board of managers of a penal institution is not always the safest body with which to leave the liberty of the prisoner. Even though it be constitutional and otherwise legal, to confer upon the managers of a penal institution the power of discharge, is it not of doubtful wisdom under our form of government? Is it not a matter of serious concern whether a "court of discharge" should not exist in each State, having judicial power of inquiry and action? If it could be certain that no conditions that were political and non-judicial would control the board of management, the power might be lodged safely with them. But is not the temptation too great from the possibility of political influence which such a power to discharge carries with it, for us to hope that it will be exercised always with the sole object of promoting the good of the prisoner? Would not both, the public and the prisoner, feel safer in the hands of an impartial tribunal in which was lodged the ultimate decision as to a discharge?—a tribunal with power to hear the whole matter and with the sole power to remand into custody for cause. Should not a man have the right to be heard on the question of his remand into custody? I would not take from the managers their power of initiative as to release. I would require all applications for release, before expiration of term, to come through them, but, if they refused to permit an application for parole after a reasonable term of service that the court might consider it, I would give the prisoner the right of review and of a hearing before the discharge court. This court could be composed of a judge, designated by the Governor, and of the several wardens of the penal institutions of the State, or a majority of them. The judge should be president of the court, and no prisoner, once discharged, should be remanded, except upon the order of the president of the discharge court, made upon verified facts, duly presented and filed as a matter of public record. The plan here suggested may not be the wisest, and further reflection may devise a better, but, in the interests of absolute impartiality and assured public confidence—which are essential to the permanence of the system—it seems clear that some such protection should be thrown around it.

Let us, then strive for the permanent establishment, under proper safeguards, of probation and the indeterminate sentence feature in the penal system of the Federal and State governments. With them will come enlarged possibilities for the scientific study of criminology and the criminal. When we shall have attained this, there will have been ushered in a new and enlightened method for the reduction of crime, namely: The study, reformation and elevation of the individual man.

The Tramp Corporation.

By Hon. William E. Church, of Chicago.

(Address delivered before the Illinois State Bar Association at its twenty-sixth annual meeting.)

An article in the "Outlook" of December 14, 1901, by William D. Washburn, Jr., of Minnesota, on "Minnesota and the Railway Trust," contains these suggestive sentences:

"The people of Minnesota do not believe for a moment that the State of New Jersey can erect an organization to defy the law in the State of Minnesota. * * * Neither the statutes of the State of New Jersey nor of any other State can saddle this corporation upon a sovereign people."

Equally suggestive is the following paragraph from a pamphlet recently published for gratuitious distribution by the Broun-Green Company, of New York, under the title "Where to Incorporate"—a symposium by members of the Eastern bar, setting forth the special advantages presented by four States, respectively, as breeding-ground for corporations organized for the actual purpose of carrying on business in some other State:

"By the rules of interstate comity, a corporation organized under the laws of a particular State may transact business beyond the borders of that State; it is even legal for citizens of one State to incorporate a company in another State for the purpose of carrying on their entire corporate business in the State where they live. This may be practically stated to be the recognized doctrine of the country and is universally recognized as the tendency of modern corporation law."

For the purpose of exhibiting some of the peculiar inducements offered to incorporators by these rival contestants for foreign patronage, we select the State of New Jersey, though it should be distinctly understood that in so doing no disparagement of the claims of other States is intended.

Here is the partial list of the attractions offered:

1. Perpetual duration.
2. None of the corporators need be residents of the State.
3. But one resident director is required.
4. The right to purchase and hold stock of other corporations.
5. This may be best stated in the language of one of the writers referred to:

"The laws of New Jersey involve no publicity, the only report required to be filed with the Secretary of State being the list of officers and directors, filed within thirty days after the annual stockholders' meeting. The corporation must keep a record of the stockholders in New Jersey, which is open to inspection by the stockholders, but is not public property. The books of account and general records of the company are not required to be kept in New Jersey; they may be free from inspection even by the stockholders. Under New Jersey's law it is not necessary to file or publish any statement of loans or liabilities, nor to disclose the private affairs of the corporation."

6. Powers. Quoting again from the pamphlet symposium:

"New Jersey certainly grants broad powers. In one of the most recent charters the power is given among other things to make any kind of contract, to carry on any business and do all things therein set forth to the same extent as natural persons might or could do in any part of the world, as agents, contractors, trustees or otherwise."

A reference to the general incorporation act of the State shows that after conferring power upon any three or more persons to become a corporation "for any lawful purpose or purposes whatever," the statute excepts certain specified lines of business, among them railroad, telegraph and telephone companies, and follows the enumeration with this remarkable if not unique proviso:

"It shall, however, be lawful to form a company hereunder for the purpose of constructing, maintaining and operating railroad, telephone and telegraph lines outside of this State."

In other words, by this proviso the State of New Jersey undertakes the truly benevolent task of creating corporations to construct and operate the public utilities of her sister States. Accordingly we find the charters of the Carnegie Company, the United States Steel Corporation, the Federal Steel Company and others providing for the construction of railways, but only outside of New Jersey.

That even this partial list of the advantages presented by the State of New Jersey, offers most alluring inducements to promoters of what have been aptly called "tramp" corporations will hardly be denied. Their material value is largely attested by the fact that so many corporations are willing to pay not only the initial fee, but also the annual taxes imposed by the State, for the mere privilege of corporate existence under its charter. That this list also contains the germs of almost every element which has tended to excite popular apprehension and distrust concerning the rapid growth of corporate control in the business of the country, must likewise be evident to any one familiar with the subject.

In order that no element of convenience may be lacking, sundry local corporation trust companies have been formed, which undertake not only to procure any desired charter, but to provide within the State convenient rooms which shall answer the designation of "principal place of business" of the corporation, where the annual elections may be held and where such of the books may be kept as the law requires to be kept in the State; they also furnish the statutory resident director.

Perhaps the most amazing thing about all this is that there is so much truth in the statement above quoted, to the effect that the legality of the organization of corporations in one State by citizens of another, for the purpose of carrying on the entire corporate business in their own State, is the recognized doctrine of the country—universally recognized as the tendency of modern corporation law. That the statement is wholly or largely true as a juridical fact can hardly be conceded. That it has a substantial foundation in a quite general public tolerance, must be admitted.

Any adequate attempt to explain the reasons for this remarkable condition would unduly extend the scope of this paper. It is sufficient for the present purpose to say that any doctrine which affirms or any legislation which assumes the right of a State to breed corporations whose purpose is to operate solely in another State—usually that in which their actual progenitors reside—is a wide departure from the fundamental principles of corporate existence and presumptuous imposition upon interstate comity.

No wonder that the people of some of the States are beginning to awaken both to the danger which lurks in these encroachments upon their legislative and commercial rights and to this gross infringement of their sovereign dignity. The people of Minnesota will not, nor ought they, submit to it. Nor will the people of many other States of the West and Northwest. If there were no other reason, it would be intoler-

able that for the redress of any evils involving the internal management or corporate existence of such organizations or for the investigation of their corporate books and accounts, citizens of the States where the business is carried on should be driven to the courts of a State having no interest whatever in the corporation except to preserve it.

The organization of such concerns as the Northern Securities Company to acquire and hold the stock of business corporations, if not indicative of a purpose to erect one more obstacles in the path of judicial investigation, at all events makes such a result tolerably—or intolerably—certain. If no adverse legislation intervenes, it is by no means impossible that we may be treated to the edifying spectacle of a new corporation organized by citizens of Minnesota under the laws of Delaware, to operate a railroad in North Dakota, the stock of which shall be owned and its business controlled by another corporation organized for the purpose by citizens of New York under the laws of New Jersey. Indeed, the process may be indefinitely extended.

Long ago, in the case of Bank of Augusta v. Earle, 13 Peters, 519, the Supreme Court of the United States laid down certain principles which have ever since been generally recognized and applied, with their natural and necessary development, by the courts of this country. Some of these may be here stated:

"A corporation being the mere creation of local law, can have no legal existence beyond the limits of the sovereignty which created it. It must dwell in the place of its creation and cannot migrate to another sovereignty. The recognition of its existence even by other States and the enforcement of its contracts made therein, depend purely upon the comity of those States; a comity which is never extended when the existence of the corporation or the exercise of its powers are prejudicial to their interests or repugnant to their policy. Having no absolute right of recognition in other States, but depending for such recognition and the enforcement of its contracts upon their assent, it follows as a matter of course that such assent may be granted upon such terms and conditions as those States may think proper to impose."

Paul v. Virginia, 8 Wall. 168, Citing Bank of Augusta v. Earle.

Answering the contention that in respect of its contracts, entered into outside of the State of its creation, the members of a corporation were to be regarded as individuals carrying on business under their corporate name and therefore in that capacity entitled to the privileges and immunities secured by the constitution to citizens in the several States, Chief Justice Taney in Bank of Augusta v. Earle, among other reasons for denying the soundness of this proposition, said:

"Besides, it would deprive the State of all control over the extent of corporate franchises proper to be granted by the State; and corporations would be chartered in one to carry on their operations in another. It is impossible upon any sound principle, to give such a construction to the article in question."

It was accordingly held that whenever a corporation makes a contract it is the contract of the legal entity—the artificial being created by the charter and not the contract of the individual members, and that the only rights it can claim are the rights which are given to it in that character, and not the rights which belong to its members of citizens of a State.

Again, speaking of the rule of interstate comity and of the presumption, in the absence of adverse legislation or judicial decision, of the existence in a State of a comity permitting the transaction of business therein by foreign corporations, Justice Taney says:

"And when (as without doubt must occasionally happen) the interest or policy of any State requires it to restrict the rule, it has but to declare its will and the legal presumption is at an end."

The particular development of the idea of breeding "tramp" corporations, which consists in providing a general system of rapid incubation, open to all who may choose to avail themselves of its advantages, is of comparatively recent growth. The idea itself is not new. February 16, 1886, the Legislature of Pennsylvania passed an act entitled "An act to incorporate the New York and California Vineyard Company." At that time, the Legislatures of Pennsylvania were not at all particular to provide their statutes with titles indicating their real objects, and this particular statute, albeit a special charter, afforded no hint whatever of the actual purposes of the organization. A perusal of the act shows these to have been the acquisition, operation and disposal of mining property, with the usual incidental powers, but with this singular limitation, viz.: That all of these powers were to be exercised "in any State of the United States or the territories thereof except in the State of Pennsylvania."

A second section provided that it should "be lawful for the company to establish the necessary offices for the business of the company wherever their business is located and to have their principal office in the United State in such place as they may deem expedient, at which place it shall be lawful to hold all meetings for the transaction of the business of the company."

By a supplement to the original act of incorporation, passed February 16, 1870, this New York and California Vineyard Company was granted power "to borrow money in any State, Territory or country, except the State of Pennsylvania," and to secure the same by bond, etc.

With an evident recognition of the incongruity between the legislative title of this act and the declared objects of the company and possibly with a prophetic sense that the stockholders might not care to be limited to either, the power was conferred upon them of changing the name of the corporation at their discretion, which was promptly done by the adoption of the name of "The Land Grant Railway & Trust Company." All of which would seem to indicate some advantages in the Pennsylvania plan over that of New Jersey.

About this time, the people of a county in the State of Kansas voted to subscribe for $200,000 of the stock of the Missouri, Kansas and Texas Railway Company, to be paid in bonds of the county, and shortly afterward that company entered into a contract with the Land Grant Railway and Trust Company whereby the latter agreed to build certain sections of the road in consideration of the assignment to it by the former of sundry securities, including its interest in the aforesaid bonds which as yet were unissued.

The Commissioners of the Kansas County having refused on demand to make the subscription to the stock or to issue the bonds which the people had voted, suit was brought to compel them to do so, whereupon the commissioners answered that the alleged Land Grant Railway & Trust Company was no corporation and had no existence as such in the State of Kansas. In the course of an opinion affirming the soundness of this defense, the Supreme Court of Kansas said:

"No rule of comity will allow one State to spawn corporations and send them forth into other States to be nurtured and do business there when said first mentioned State will not allow them to do business within its own boundaries. * * * From the only territory in the world over which the State of Pennsylvania has any jurisdiction or control and in which it could authorize a corporation to have an office or to do business, it excluded this corporation, and the attempt on the part of the State of Pennsylvania to authorize this corporation to have an office or to do business anywhere except in the State of Pennsylvania is ultra vires, illegal and void. The truth is that while this supposed corporation was originally organized for the whole United States except the State of Pennsylvania and afterwards by its amended charter for the whole world except Pennsylvania, it had no legal or valid existence anywhere on the face of the earth. At the very creation of

this supposed corporation its creator spurned it from the land of its birth as illegitimate and unworthy of a home among its kindred and sent it forth a wanderer on foreign soil. Is the State of Kansas bound by any kind of courtesy or comity or friendship or kindness to Pennsylvania to treat this corporation better than its creator had done?"

Land Grant Railway & Trust Co. v. Coffey Co., 6 Kansas, 245.

It would seem, therefore, that the grapes raised by the New York and California Vineyard Company of Pennsylvania did not find a market in the State of Kansas.

This case presents what is perhaps the most conspicuously flagrant instance on record of trespass upon the doctrine of interstate comity and shows how one court dealt with such a barefaced imposition. To talk of the obligations of comity in such a case is to misconceive the very basis of the doctrine and to ignore its fundamental principles. Certainly no State has any just grounds to expect a sister State to accord to its creatures privileges which it has itself withheld or to clothe with flesh and blood and inspire with the breath of life the dry skeletons which it casts out from its own borders.

The critical observer familiar with current legislation on this subject will notice a distinction between the special charter by which this Pennsylvania corporation was created and the more recently enacted general statutes like those of the State of New Jersey, in the fact that while under the former all the corporate functions could be exercised only outside of the parent State, under the latter, corporations may be created, some of whose operations may be carried on within the parent State, so that if it were desired, for instance, to organize under the laws of New Jersey, a company to build and operate a telephone plant in Minnesota, the simple device of naming as one of the objects of the incorporation the manufacture of shoe pegs or frying pans or some other equally innocent business, would apparently serve to furnish the skeleton with a garment to hide its nakedness withal. But it is hardly probable that the courts of Minnesota would hesitate, in such a case, to strip off the garment and expose the skeleton.

The report of the Kansas case does not disclose the residence of the incorporators named in the charter and the question does not seem to have been raised in the case. As already stated, a familiar phase of the tramp corporation occurs in those which are organized by citizens of one State under the laws of another, with the actual though not with the expressed purpose of carrying on all their business operations in the State where the promoters reside, thus depriving its tribunals of full and complete supervision over the business of its own citizens. Upon the question of the validity of such organizations, or rather as to the propriety of judicial investigation of the purposes of their promoters, the authorities are somewhat divided, but, it is doubtful at best whether even legislative exclusion of corporations so organized from the privileges otherwise accorded to foreign corporations would be an effective remedy, since it would be quite a simple matter to employ citizens of the parent State as dummy corporators, and, after organization completed, to turn over all the stock to the parties actually interested. This is said to have been the method adopted in the case of the recently organized "Corn Products Company." But after all, perhaps the question of the residence of the corporation is more important than that of the residence of the individuals by whom it is controlled since the latter factor is necessarily subject to frequent changes.

The naturally progressive extension of their business by commercial corporations beyond the limits of the parent State, is a perfectly legitimate development of the corporate idea and under proper safeguards it may not only be productive of economic benefit to the various communities in which they operate, but may constitute a strong bond of national unity, and such safeguards, more or less adequate, have long been provided by most if not all of the States. The thing to be feared and as far as possible restrained is the rapidly growing tendency of vast combination of capital, organized for exclusive control of large market and business operations, to seek the largest possible immunity from judicial investigation and supervision and legislative restraint, by procuring charters from States, often remote from the scene of actual operation, and which, expecting no benefit other than the large revenues from organization fees and annual taxes, are chiefly solicitous to provide whatever inducements experience indicates as most likely to prove attractive to promoters. Of such conditions the public is justly and profoundly distrustful and when such encroachments upon the beneficent principles of interstate comity involve the construction and operation of public utilities such as railways, telegraph and telephone lines, water, gas and electric light works, prompt and decisive action is necessary.

Of some things we may be absolutely certain. These keen, active, alert, pushing, determined American business men will take all they can get; seize every opportunity; avail themselves of every advantage offered and having occupied will intrench and immediately prepare for further advances. Ceaseless energy; highest courage and skill to plan, organize and execute; wisest counsel in attack and defense—every resource that money and influence can command will be theirs and in that conflict there is never any truce. Nor may a certain measure of admiration and approval justly be withheld. This same tireless energy, skill and courage, flooding every channel of commercial activity, combining in resistless sweep all the forces of industrial enterprise, have strung the land with railroads and telegraph wires, dotted it with factories peopled it with millions, increased in numberless ways the comforts and conveniences of life and brought the United States into the front rank of the nations and have given us a grasp upon the international policy of the world which already challenges not only universal admiration but general and anxious concern among the great world powers. But it is never safe to discard the wholesome restrains of the law nor shut our eyes to dangerous tendencies either in economic or political movements, and there can be little doubt that in the present enormous development of the corporate idea, lurk elements of real danger.

When a community thinks it needs a railroad, it is very likely to let any one build it who will, without questioning the future too closely, and some Jacob always has a mess of pottage ready for needy Esau. The pottage may be fairly good, too; at all events it satisfies the present hunger, but in the end the price may be found exorbitant. Jacob is pretty sure to get the best of the bargain.

It is better to return to first principles. These contests between the legislative departments of States as to which shall offer charters conferring the maximum of privilege with the minimum of burden and of responsibility, are not only unseemly but violative of the essential spirit of interstate comity and tend to its speedy destruction. It is impossible that the people of any State can look with complaisance upon legislation by a sister State designed to foist upon them creations whose essential characteristics are repugnant to their own policy and which shall be in many respects beyond their supervision and control, and so long as such legislation is persisted in there is but one remedy, viz.: Legislative abrogation of the rule of comity in respect of non-resident corporations, to whatever extent may be necessary to compel the observance of those limitations upon corporate life and corporate activities which the public welfare demands.

It should be borne in mind that from the point of view of the public, the primary element of danger in the corporate idea is the exchange of individual for corporate responsibility, and that to whatever extent the public surrenders the right of

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supervision and control over these great business machines which it has created, by just so much is the danger from unrestrained and irresponsible activity increased.

The actual exclusion of non-resident corporations or, which would be practically the same thing, a direct requirement that they obtain local charters as a condition precedent to the transaction of business, is out of the question, but it may perhaps be practicable to compel corporations seeking what may be called extra-filial privileges, to obtain their charters from some State whose legislation recognizes both the necessity for a reasonable regulation and restraint of corporate business and the courtesy due to sister States in respect of these organizations.

With this object in view and for further protection against corporate irresponsibility, some legislative restraints upon nonresident corporations are suggested, viz.:

That no non-resident corporation shall be permitted to carry on any business whatever in the State—

1. The majority of whose stock—or perhaps a less proportion—is owned or controlled, or whose business is controlled, directly or indirectly, by or in the interest of another non-resident corporation.

2. Unless it is actually and in good faith carrying on the principal business for which it was formed and maintaining its corporate headquarters and principal commercial office, in the State of its origin.

Topics of Interest.

STOCKHOLDER'S LIABILITY TO RECEIVER OF INSOLVENT BANK FOR INTEREST ON DEPOSITS.

Payment to a depositor of an insolvent State bank in the hands of a receiver, by various dividends, of the full amount due at the time of its closing for the deposit and contractual interest thereon does not relieve a stockholder from proportionate individual liability, to the extent of the amount of his stock at par value thereof, to the depositor for interest upon the unpaid balances of this sum from the time of the closing of the bank down to the time of the payment of the last dividend. (Supreme Court of New York; Parker v. Adams, 38 Misc., 825.)

LIBEL AND SLANDER—PRIVILEGE OF COMMERCIAL AGENCY.

A communication transmitted by a commercial agency, that a certain person had made an assignment for the benefit of creditors, when the information received by it was that he had made an assignment to secure the indorser of a note, is

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held, in Douglass v. Daisley (C. C. A. 1st C.) 57 L. R. A. 475, not to be privileged as a matter of law.

The fact that a mortgage is given to secure payment of an entire sum which is payable in instalments is held, in George v. Butler (Wash.) 57 L. R. A. 396, not to prevent the running of the statute of limitations against each instalment as it becomes due.

ALTERATION OF NOTE WHERE BLANK SPACES LEFT.

One who signs a note as surety, in which are written the words "five hundred," with spaces before and after them, which the maker fills up by writing "twenty" before and "fifty" after them, making a note for $2,550, is liable thereon to a bona fide purchaser. (Hackett v. First National Bank of Louisville [Ky.] 70 S. W. 664.)

MASTER AND SERVANT.

The death of a servant, caused by criminal violence of a mob of strikers, is held, in Foreman v. Taylor Coal Co. (Ky.) 57 L. R. A. 447, to impose no liability on the master, under a statute making him liable for death resulting from injuries inflicted by his negligence or wrongful act.

The duty of using a fender provided by the owner of a vessel to aid in docking it is held, in Kelly v. New Haven Steamboat Co. (Conn.) 57 L. R. A. 494, not to rest upon him, and he is therefore held not to be liable for injuries to an employees resulting from the neglect of the mate to use it in bringing the vessel into the dock, although the injured employee works under the immediate orders of the mate.

LIABILITY OF TELEGRAPH COMPANIES.

Damages for mental anguish caused by breach by a telegraph company of its contract to transmit money promptly are held, in Robinson v. Western U. Teleg. C. (Ky.) 57 L. R. A. 511, not to be recoverable.

A telegraph company is held, in Commonwealth v. Western U. Teleg. Co. (Ky.) 57 L. R. A. 614, not to be guilty of maintaining a common nuisance because it delivers, at a place not under its control, which is used and resorted to for selling pools and betting on horse races, to the common nuisance and annoyance of all good citizens in the neighborhood, messages containing the information necessary to such transactions.

LIABILITY OF TRUST ESTATE WHERE FREEDOM FROM BENEFICIARY'S DEBTS IS PROVIDED FOR.

An equitable life estate created by a wife in favor of her husband, which shall be free from the debts of the beneficiary, is held, in Hutchinson v. Maxwell (Va.) 57 L. R. A. 384, to be void where the statutes provide that estates of every kind, holden or possessed in trust shall be subject to debts and charges of the persons for whose benefit they are holden, as they would be if those persons owned the like interest in the things holden or possessed, as in the uses or trust thereof.

CONSTRUCTION OF WILL.

The widow of a beneficiary is held, in Re Devoe (N. Y.) 57 L. R. A. 536, not to be entitled to share under a will directing that, in case of the death of a beneficiary before the time for distribution arrives, his share shall be paid over to his next of kin as, according to the statute of distributions, his personal estate would be divided and distributed.

TAXATION.

The privileges and immunities of citizens of other States are held, in State v. Travelers' Ins. Co. (Conn.) 57 L. R. A. 481, not to be violated by a statute taxing the resident stockholders of certain corporations in the town in which they reside, deducting from the market value of the stock the value of the capital invested in real estate on which the company pays taxes, but imposing a State tax on non-resident shareholders on the market value of their shares, without any provision for deduction of capital invested in real estate.

A tax on all remainders or reversions which vested prior to a certain date, but which shall not come into possession until after the passage of the act, even if it can be regarded as a tax on property, and not on transfers, is held, in Re Pell

(N. Y.) 57 L. R. A. 540, to be invalid as not bearing equally upon the entire class to which the property belongs.

The renting of a church parsonage, and using the rent to procure another residence for the parson, is held, in Protestant Episcopal Church v. Prioleau (S. C.) 57 L. R. A. 606, not to deprive it of its exemption from taxation, under a provision that exemption of parsonages shall not extend beyond the buildings and premises actually occupied as such.

INSURANCE.

Under a statute requiring insurance commissioners to issue a license to a foreign insurance company to do business in the State, if satisfied with its statement showing its financial condition and standing, it is held, in Bankers' Life Ins. Co. v. Howland (Vt.) 57 L. R. A. 374, that the commissioners have no authority to question the method of computing the reserve set forth in the statement, or to enter upon an independent valuation of such reserve.

The interest of the assured in a twenty-year distribution policy of insurance on his life, which will cease on his failure to pay premiums, is held, in Boisseau Use of Robinson v. Penn (Va.) 57 L. R. A. 380, not to be an estate within the meaning of a statute making an execution a lien, from the time it is placed in the hands of the officer, on all the personal estate of or to which the judgment debtor is, or may afterwards and befre the return of date of the writ become, entitled.

CONSTITUTIONAL LAW.

A statute rendering telegraph companies liable for mental anguish caused by failure promptly to transmit and deliver a message is held, in Simmons v. Western U. Teleg. Co. (S. C.) 57 L. R. A. 607, not to deprive them of property without due process of law, or deny them the equal protection of the laws.

A statute giving the probate judge of one county a salary, and requiring him to account for all fees received, while the judges of all other counties are permitted to retain the fees as their compensation, is held, in Henderson v. Koenig (Mo.) 57 L. R. A. 659, to be in violation of a constitutional provision requiring the general assembly, by a law uniform in its operation, to provide for and regulate the fees of all county officers.

A statute imposing a penalty on agents transacting business within the State for foreign partnerships which have not complied with conditions not required of local partnerships is held, in State v. Cadigan (Vt.) 57 L. R. A. 66, to be void as discriminating against such agents in favor of those of local firms.

BANKRUPTCY.

An indirect effort to draw exempt property within the jurisdiction of bankruptcy met with no success in Re Jackson, 8 Am. B. R. 594, where it was held that the trustee may not be subrogated to the rights of a creditor having a judgment entered against the bankrupt upon a note, wherein he waived his personal property exemption, and that an order restraining the creditor from proceeding further upon his judgment and execution, will be so modified as to permit him to assert his rights as execution creditor against exempt property.

* * *

While the authorities, upon the points, are in confusion and conflict, it was held in Re Myer, 8 Am. B. R. 598, that where, within the four months period, the bankrupt upon closing his account gives a note in full of his indebtedness, the creditor is not entitled to prove a claim on notes given for an indebtedness thereafter incurred, without surrendering preferential payments on the first note made to one whom it has been assigned as collateral security for a debt of the payee.

* * *

Upon the ground that the rights of a bona fide purchaser for value of a negotiable instrument are not affected by the equities between the antecedent parties, nor altered by the terms of the Bankrupt Act, it was held in Re Wyly, 8 Am. B. R. 604, that where, before maturity, a negotiable promissory note is transferred by indorsement of the payee to a bank, which is good faith and in the due course of its business of discounting commercial paper, purchases the same for a valuable consideration, and the evidence fails to disclose that the bank had knowledge of the maker's insolvency or of the relations existing between him and the original payee, the bank is entitled to prove its claim upon the note against the maker's estate in bankruptcy, although had the note remained in the hands of the original payee and indorser he would not have been allowed to make proof thereon without surrendering preferential payments received by him.

* * *

Where, within ten days from the date of a subpoena, issued upon the filing of a petition in involuntary bankruptcy and returned by the marshal with his indorsement thereon that the alleged bankrupt was "not found," an answer is filed by an alleged creditor denying the commission of the alleged acts of bankruptcy and attacking the legitimacy of the claims of the petitioning creditors, and no further proceedings are taken until more than four months thereafter, when the alleged bankrupt appears by attorney and files his verified appearance, admission of insolvency and consent that he be adjudged a bankrupt, the court has jurisdiction to enter an order of adjudication, it appearing from the record that the alleged bankrupt resided or carried on business within the district for the required period of time. Matter of Frischberg, 8 Am. B. R. 607.

* * *

In Re Bullock, 8 Am. B. R. 646, it was held that where within two months of the delivery of three notes of the bankrupt, given six months prior to adjudication, in settlement of account, the payee assigns them before maturity to a bank, the payment of two of them by the maker within the four months period does not constitute a preference to the payee, which he must refund as a condition of proving his claim on the other note which he was compelled to take up on a debt subsequently contracted by the bankrupt for which no security was taken.

* * *

Although the court of bankruptcy may not determine the merits of a real controversy as to the ownership of property claimed adversely to the bankrupt, it was held in Re Rosenberg, 8 Am. B. R. 624, that where the adverse claimant of personal property, alleged by the trustee to be a part of the bankrupt's estate, is adjudicated a bankrupt, the bankruptcy court, as between the two trustees, has jurisdiction to determine the ownership of the fund arising from the sale of such property, and to distribute it to one set of creditors or the other.

* * *

That a claim for voluntary overpayment of money by mistake in accounting with the bankrupt is released by his discharge if scheduled, was held in Western Cold Storage Co. v. Hurd, 8 Am. B. R. 633, and the fact that when restitution was demanded he denied liability under pretense that there was no mistake, cannot convert the wrongful detention of the money into an original positive fraud, essential in the creation of a debt to avoid the effect of the discharge.

* * *

A judgment rendered in an action in attachment and garnishment against an insolvent bankrupt, brought within the four months period, must, under section 67f of the Bankrupt Act, be treated as a nullity whenever drawn in question either in a direct or collateral proceeding, and when the jurisdiction of the bankruptcy court is not challenged, except upon the ground of the validity of the garnishee judgment, and order of the referee that the garnishee pay into court the amount owing to the bankrupt will be affirmed. In Re Beals, 8 Am. B. R. 639.

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CALIFORNIA.

The banquet of the Bar Association of Fresno at the Hughes hotel on December 13, gave the members of the bar an opportunity to display their social as opposed to their legal side, and they laid aside their professional gravity and made the most of the occasion. It was a banquet, and a formal banquet at that, and still its informality was what made it a success—which may sound paradoxical, but is nevertheless a fact.

The table was arranged in "T" shape, and there was really no head to it, so it might be taken constructively as a round table. Dainty decorations of smilax, pinks and chrysanthemums covered the board, which was lighted with shaded candles.

The guests of the evening were Judges Church and Austin and Justice of the Peace-elect George W. Smith, and the other members of the association present were: H. E. Barbour, Joseph P. Bernhard, Henry Brickley, George Cosgrave, A. M. Drew, David S. Ewing, District Attorney Everts, W. D. Foote, G. C. Freman, M. B. Harris, L. B. Hayhurst, S. J. Hinds, H. M. Johnston, George W. Jones, Frank Kauke, F. G. Ostrander, N. H. Peterson, A. E. Snow, W. L. Sutherland and H. C. Tupper, with Henry Hawson, of the Democrat and a representative of the Republican. President Warlow, of the association, was

unable to be present on account of illness, and Mr. Bernhard was too bashful to act as toastmaster; he prevailed on S. J. Hinds to act in that capacity.

An effort at a set speech would have caused the rash attempter of the deed to meet with disaster, for the dinner was of the order of the famous Clover Club of Philadelphia, and no man was permitted to think that he had any dignity left when he began to speak. Suggestions came unasked and unsolicited, and scarcely one was allowed to finish the speech that he intended to make. Mr. Hinds in a few introductory remarks gave the key to the affair when he asked those who might be called on to speak to try to display some knowledge of the law and a little intelligence. Then he named Mr. Foote as respondent to the charge that he was a poet—not exactly in that way, of course, but letting him down easy by giving him the toast, "Lawyers as Poets," to respond to.

Mr. Foote said he had always been insufficiently feed, but he was happy to state that he was well-fed and he was willing to admit that he had a little piece of poetry, if the ladies—and at this point the waitresses withdrew, but there was really no reason for it, because the verse was perfectly innocuous. However, the haste with which the waitresses ran blushing away made everyone laugh.

Then Mr. Bernhard called Mr. Foote the poet-lariat of the San Joaquin and started to read a recently reported case, which he finished by displaying great staying powers against the efforts of the entire association to interrupt him.

W. A. Barbour discussed the jurisdiction of the admiralty courts over irrigation districts and declared that they should have jurisdiction over trusts on account of watered stock. S. J. Hinds read some poetry and W. A. Sutherland discussed "Torts and Retorts," telling some cases that were interesting.

"Dirigible Balloons as Common Carriers" was the subject handed out by the committee to M. B. Harris. Mr. Harris was permitted to say that a dirigible balloon was a controllable balloon, but that was as near as he was allowed to touch on the subject. For the rest they made him talk about the tariff on raisins and anything but the toast, until he accused Mr. Bernhard of having written the speech and he finally sat down when Mr. Jones moved that the matter be submitted on briefs, "ten and ten and five."

Mr. Ewing was greeted with inquiries about his voice when he arose, but he managed to acquit himself in his usual humorous vein without other serious interruption. Mr. Drew told a witty story, Henry C. Tupper spoke as the oldest member of the local bar who was present, and George Cosgrave was asked to respond to "The Coming Benedick." Mr. Cosgrave spoke in an entertaining vein, but Mr. Freman called his attention to the fact that he had wholly overlooked the ladies, and Mr. Freman wanted to know what the lady's name was.

Mr. Hawson responded to the toast, "The Press," in a graceful and witty speech, and the speaking was ended by Mr. Hinds giving a Portuguese dialect speech on "Our Country" that evoked roars of laughter.

CONNECTICUT.

The annual banquet of the Litchfield County Bar Association was held at Hotel Winchester, at Winsted, December 15. About thirty lawyers of the county attended. The invited guests present were Judge George W. Wheeler, of Bridgeport, and Hon. Michael Kenearly of Stamford. The annual business meeting of the association was held the day before and it was voted to recommend for examination the following: S. McLean Buckingham, of Watertown; William H. Blodgett, of Canaan, and George A. Sanford, of Winsted.

A meeting of the Fairfield County Bar Association was held in the Civil Superior Court room in Bridgeport, December 19. J. Belden Hurlbutt, of Norwalk, the oldest member of the bar present, presided. Sanford Stoddard and Stephen Van Stone, of Bridgeport, Joseph Flint, of Fairfield, and Henry B. White, of Greenwich, were given permission to take the examinations for the bar. These will be held next Friday. Jeremiah Leiberman, of New York, was admitted to the bar without examination.

DISTRICT OF COLUMBIA.

A new organization of members of the local bar, the incorporators being representative of the younger element among the practitioners, has been formed. It has adopted the title, "Lawyers' Association of Washington," and on December 6 placed a certificate of incorporation on record.

It is explained that the particular business and objects of the association shall be to maintain the honor and dignity of the profession of the law and insure conformity to a high standard of professional duty; to aid in promoting the due administration of justice; to co-operate in the natural improvement of members of the association, and to promote concerted action among members of the bar, and to acquire and maintain a library for the use of the members of the association.

The incorporators are Alexander H. Bell, G. Thomas Dunlop, A. A. Hoehling, Jr., Benjamin Minor, Arthur Peter, Andrew Y. Bradley, S. Duncan Bradley, J. S. Flannery, H. Prescott Gatley, J. Miller Kenyon, R. Ross Perry, Jr., Charles F. Wilson, Clarence R. Wilson and Smith Thompson, Jr.

Justice John M. Harlan was the guest of honor at a dinner given by the Bar Association of the District of Columbia on December 9 in commemoration of his service of a quarter of a century on the Supreme Court bench.

President Roosevelt and other high officials of the Government, judges and eminent lawyers from all parts of the United States were in attendance. Senator William P. Frye, President pro tempore of the Senate, and Speaker Henderson, of the House of Representatives, were among the guests. The total attendance was nearly four hundred.

In the absence of Attorney-General Knox, Wayne MacVeagh presided at the banquet. Grace was said by the Rev. Richard D. Harlan, of Lake Forest, Ill., eldest son of the Justice. Mr. Harlan's two other sons, James S. Harlan, of Chicago, Chief Justice of Porto Rico, and John Maynard Harlan, of Chicago, also were present, while Mrs. and Miss Harlan and a host of friends were interested spectators in the gallery.

President Roosevelt came unattended from the White House in his carriage. Many of the guests had assembled in the lobby and corridors of the New Willard to see the President as he went into the banquet-room. The President acknowledged their hand-clappings by lifting his hat.

The President warmly congratulated Justice Harlan, grasping him by both hands, before taking his seat. When the time for speechmaking arrived Mr. MacVeagh introduced the President, who spoke as follows:

"It is not an idle boast of this country when we speak of the court upon which Mr. Justice Harlan sits as the most illustrious and important in all the civilized world. It is not merely our own people who say that—it is the verdict of other nations as well.

"The judges of the Supreme Court must be not only great jurists, but they must be great constructive statesmen. In not one serious study of American political life will it be possible to omit the immense part played by the Supreme Court in the creation, not merely the modification, of the great policies through and by means of which the country has moved on to her present position. Thrice fortunate is the court when it has as one of its members a man who has played a great part in other spheres of our composite life.

"Justice Harlan came from Kentucky, a state in which the patriotism of the people was put to so peculiarly a severe test in the civil war.

"The greatest debt owed by this country to any set of men is owed by it to those men of the so-called border states, who were for the Union without regard to whether their immediate associates were for it or not.

"I am half a Southerner myself. Two of my uncles fought in the Confederate army. One of them served under the father-in-law of Vice-Gov. Luke Wright, of the Philippine Islands. And so I think I have the right to say that, knowing the Southern people as I do, I would heartily advocate fighting twice as hard as you fought from '61 to '65 for the privilege of staying in the same Union with them.

"The man to be a great statesman on the bench of the Supreme Court must have many qualities, and fortunate are we that this evening we can point to Justice Harlan as embodying them.

"It is a fine thing to have on the Supreme Court a man who dared venture all for the great prize of death in battle when the country called for him. Judge Harlan, I greet you personally, sir. I wish to express my own personal debt to you for your influence, for your example, but I wish far more, speaking as the representative of all our people, to express the infinite sense of obligation we have to you for having shown by your life what the type of fearless American citizenship should be."

When Mr. MacVeagh introduced Justice Harlan the cheering was prolonged. Other speakers were Senator Hoar, Chief Justice Fuller, Justice Brewer, Edward Blake, of Canada; Judge Alexander P. Humphrey, of Kentucky; Assistant Attorney-General Beck and R. Ross Perry, of the District of Columbia.

GEORGIA.

When the Bar Association was called to order on December 15 by President James C. C. Black, the following business was transacted:

Boykin Wright, Esq., arose and said that Representative C. E. Dunbar had informed him the bills prepared by the Bar Association, providing for four terms of the Superior Court each

year, had been passed by the Legislature and only awaited the signature of the Governor to become a law. The members of the bar were unacquainted with the form of the bills or their provisions, and it was necessary to have this information b fore taking any action or drawing a jury, or similar actions until the contents of the bills were known.

Mr. Dunbar was present and regretted that he did not have a copy of the bills to read. He could state their provisions in general terms. The first bill was an amendment to the present law, saying that the Superior Court must have at least two session each year. The second bill provides for four annual terms, in January, April, July and October. The bill also provides that cases going over from the October term of this year must go to the April term of 1903, except by consent of both parties. Nothing is stated in reference to the filing of cases for the January term.

F. H. Miller, Esq., moved that the secretary be instructed to at once get a certified copy of the bill and confer with the outgoing and incoming judges before taking any action. The motion prevailed.

On the motion of Secretary D. G. Fogarty, the thanks of the Bar Association was returned to the local representatives, Messrs. Dunbar, Calvin and Mulherin, to Senator Smith and also Senator Claiborne Sneed, of Columbia county, for their work in behalf of the measure.

INDIANA.

Members of the Elkhart County Bar Association met in Goshen on December 27. There was a large attendance. W. J. Davis, the president, presided.

The secretary's report showed that the association was reorganized in 1898 with fourteen members. It now has sixty-four and did have sixty-seven, but a loss of there was caused by death. Of the members C. W. Miller will be attorney-general and F. E. Baker is on the federal bench.

The following officers were elected: James H. State, of Elkhart, president, to succeed W. J Davis; Lou W. Vail, of Goshen, secretary, to succeed Louis A. Dennert; W. H. Charnley, treasurer, to succeed himself. James S. Drake, A. S. Zook, E. B. Zigler and J. S. Dodge, Jr., were chosen members of the executive committee.

Hon. Thomas R. Marshall, of Columbia City, one of the leading Democrats of Whitley county, delivered his address on "History of the Law," which evoked the heartiest praise from the attorneys present for its logic, thought, evidences of research and conception of what the law and the legal profession stand for.

KENTUCKY.

The annual meeting of the Louisville Bar Association was held on December 27 in the law library room of the courthouse. The following officers were elected for the ensuing year: James P. Helm, president; Arthur W. Rutledge, first vice-president; W. O. Harris, second vice-president; J. Frank Fairleigh, treasurer, and E. L. McDonald, re-elected secretary. A motion to pay the secretary $100 for services was referred.

The annual banquet of the Kenton County Bar Association was held on December 6 at Masonic Temple, Covington.

Shelly D. Rouse acted as toastmaster of the evening, and he showed himself to be a master at the art. The speakers were Judge William H. Jackson, of Cincinnati; William B. Pugh, of Covington, who made a decided hit in his speech on "The Use, Disuse and Abuse of Bar Associations;" M. H. McLean, W. McD. Shaw, Leslie T. Applegate, of Falmouth, late Republican candidate for Congress from the Sixth District; William A. Byrne and Charles H. Fisk.

After partaking of an excellent dinner, served by Caterer John Lehman, the election of officers for the ensuing year was held, with the following result: President, Charles H. Fisk; vice-president, William A. Byrne; secretary, Charles A. J. Walker; treasurer, Oscar Roetken; executive committee, Walker C. Hall, Sidney Arthur and Shelley D. Rouse.

The committee in charge was composed of H B Mackoy, chairman; R. S. Holmes, S. R Hollen, Sidney Arthur and Shelley D. Rouse, who deserve the highest praise for the manner in which the affair was arranged and carried out.

Those present were: Charles Eugene Clark, L. W. Arnett, Charles F. Gausepohl, J. M. Dial, Walker C Hall, D. A. Glenn, R. H. Gray, Charles H. Fisk, Leslie T. Applegate, J. W. Bryan, W. H. Mackoy, W. H. Jackon, S. D. Rouse, W. McD. Shaw, W. B. Pugh, M. H. McLean, W. A. Byrne, M. M. Durrett, J. C. Finnell, R P. Ernest, A. C Cassatt, Herbert Jackson, Charles S. Furber, C. J. Walker, Maurice L. Galvin, Ulie J. Howard, H. B. Mackoy, R. S. Holmes, J. P. Tarvin, A. G. Simrall, M. T. Shine, F. J. Hanlon, John B Read, Thomas H. Towers, Oscar H. Roetken, J. N. Hutchins, H. J. Gausepohl, M. L. Harbeson, Robert Simmons, F. M. Tracey, Sidney Arthur, W. A. Price, Alfred E. Strickiett, R. G. Williams, S. R. Hollen, Stephen L. Blakely, Cecil Pence, W. E. Miller, Gus W. Menninger and Charles Lambert.

MASSACHUSETTS.

The Norfolk County Law Library Association held its annual meeting in the law library at the court house, Dedham, on January 5.

The reports of treasurer and librarian were submitted. The former showed that the past year $3,862.09 has been expended for books and other expenses, and that the association has a cash balance on hand of $1,193. The librarian's report showed 824 books, including the Supreme Court reports of Maryland, Indiana, Virginia, Missouri, Louisiana and Texas, had been added to the library, and that there were now 6,000 volumes in the library.

These officers were elected: President, James E. Cotter, of Hyde Park; clerk, Edward S. Fellows, of Hyde Park; librarian and treasurer, Louis A. Cook, of South Weymouth; executive committee, James E. Cotter, of Hyde Park; Charles C. Mellen, of Braintree, and Thomas E. Grover, of Canton.

The Middlesex Bar Association held its annual meeting at the East Cambridge court house, on December 8, and elected the following officers:

President Samuel K. Hamilton, Wakefield; vice-president, the Hon. George F. Richardson, Lowell; secretary, Frank M. Forbush, Newton; treasurer, Robert P. Clapp, Lexington. Council—One year, the Hon. Selwyn Z. Boman, Somerville; the Hon. Marcellus Coggan, Malden; Samuel J. Elder, Winchester; the Hon. James W. McDonald, Marlboro; the Hon. George E. Smith, Everett. Two years, Edwin B. Hale, Cambridge; Samuel Hoar, Concord; Frederick N. Wier, Lowell; the Hon. George L. Mayberry, Waltham; the Hon. Samuel L. Powers, Newton. Three years, Walter Adams, Framingham; John W. Johnson, Woburn; Gilbert A. A. Pevey, Cambridge; George C. Travis, Newton; Charles F. Worcester, Townsend.

William H. Niles has received a high honor in his election to the presidency of the Essex Bar Association which event occured December 1. He is the first Lynn man elected to the office, and his predecessors in the position were such noted men as Judge Otis P. Lord, Ashabel Huntington, Judge William C. Endicott, Stephen B. Ives, Hon. William D. Northend, and Hon. Henry P. Moulton.

The Essex Bar Association dates back nearly a century, though the present association was not organized until October 20, 1856, at Lawrence. It adopted its constitution December 16, of the same year, in Salem. The first bar association was organized in 1806. The bar then had only twenty-two members, and strange to say, there wasn't a Lynn man among them. It dissolved, in 1812, and another was organized in 1831, but it existed only a few years.

The bar association of to-day, indeed, the lawyers and the legal system, have been traced to an origin in peculiar political conditions of this country, by the late Hon. William D. Northend, and much information of public interest may be gathered from his articles.

Massachusetts was settled under the charter of "The Governor & Company of Massachusetts Bay in New England." John Endicott was the first governor, and the charter was surrendered to Winthrop upon the latter's arrival.

By the charter the officers of the corporation consisted of a governor, deputy governor, and eighteen assistants, chosen by the free men at General Court, held the last Wednesday of Easter term. These officers and assistants were practically the law making, law enforcing and judiciary power.

Unusual qualifications were imposed upon he "freemen," and with the growth and spreading out of the country the "freemen" began to send in deputies to act for them at the General Court. Jealousies arose between the assistants and the freemen in General Court, and the court finally resolved itself into two bodies, the assistants and the deputies, who transacted business by concurrent vote, and thus the General Court of to-day was organized.

The religious influence was great in the settlement of this country, and for a long time the ministers swayed the public mind, and seemed almost the real ruling power. No code of civil laws was known in earlier colonial days, and the ministerial leaders fell back upon the Bible for a guide in all matters. Indeed, many of the original settlers wished a Commonwealth founded upon Scriptural laws.

Naturally, the laws of the Bible were enforced more sternly than the laws of society. A Lynn man was found guilty of charging Rev. Mr. Cobbet, of

Lynn, with falsehood in his doctrines, and he was fined 50 shillings and compelled to make humble confession at public meeting. A scoffer of the church in Salem, was whipped and his ears cut off and was banished. His house was also pulled down. A settler on the South Shore wronged the Indians, and for his crime his house was burned down in the presence of the wronged red men, his goods were confiscated to pay the cost of his banishment. Another man was whipped because he fell asleep in church and struck the man who awakened him.

In view of the many humbugs of to-day it is amusing to mention that one clever colonial fakir, who sold a medicine which was nothing but water, and was warranted a sure cure for scurvy, was whipped and was fined £5.

Naturally there was a demand for milder laws, as well as for a fixed code of laws. After several years' controversy the "body of Liberties" was drawn up by Rev. Nathaniel Ward, of Ipswich, who studied law before becoming a minister. It was based on the Bible, and its marginal remarks referred to passages in the Scriptures. This code guaranteed many civil liberties, was milder than the English criminal code, and, indeed, was a better code than in force in England. It is said that some of its laws are in force to day.

As the colony increased in size the business of the General Court also increased and it was found necessary to establish quarter courts, to be conducted by magistrates, and Salem and Ipswich were made the shire, or court towns, of Essex county. The legal system slowly resolved itself into a General Court, with power to legislate, a court of assistants, with power in criminal cases, and concurrent jurisdiction with the county courts in civil cases. A right to appeal was preserved to all citizens, and the General Court was the highest appellate court. The Grand Jury sat and clerks to make out writs, attachments, etc., held forth in various towns at certain periods.

These old courts were very different from a court of to-day. Verbal evidence was forbidden, because clerks could not accurately take it. Shorthand was then unknown. Written evidence was solely given and lawyers devoted their abilities to arguments, and did not cross question witnesses. Jurymen in doubt had a right to talk over the case with any one they saw fit, and special verdicts were sometimes returned. On one occasion grounds for suspicion were found, but no evidence of guilt. Another jury found a man not guilty of murder, but charged him with burglary. In the witchcraft trials, it is noted that the magistrates badgered witnesses and tried to convict the accused, instead of impartially sitting in judgment.

This last statement recalls a later day story. A young lawyer opening a certain line of argument was sharply reprimanded by the judge, who ruled the argument out of order. "But I heard you use it before Judge Blank," returned the lawyer. "That was Judge Blank's fault, not mine," the judge concluded.

The Revolution changed the legal system and the courts were established by the State constitution, adopted in 1780, much as they are to-day. The old colonial laws were allowed to be in force unless repugnant to the constitution until repealed. In 1851 the code of civil procedure, or practice act, was adopted.

In days gone by the lawyers were often superior to the judges upon the bench, and delighted in perplexing them. But now the judges are of high repute, though the complaint is sometimes heard that their salaries are inadequate, and judges have resigned because their private practice paid them much better.

The Essex Bar Association of to-day has a membership of about 200. The bar association is a distinct body from the Essex Bar. The courts and the bar were established by the forefathers, as their article has shown, and the lawyers of to-day are building up upon these strong foundations safeguards of the rights and liberties of the people. The bar assocation is a union of the lawyers in the modern sense of the word "union."—Lynn Item.

MICHIGAN.

The Michigan State Bar Association will maintain a lobby at Lansing this winter to work for the following measures: The intermediate appellate court; relative to making the offices of justice of the peace a salaried one; repeal of law which entitles the holder of a diploma from the university and Detroit Law School to admission to the bar without submitting to an examination of the State Board of Examiners.

MINNESOTA.

The Ramsey County Bar Association on December 27 unanimously indorsed Judge Hascal R. Brill for appointment to the second place on the federal bench, for which a bill is now pending in Congress The meeting of the association, held at the Commercial Club, was largely attended and the enthusiasm was marked. A committee representing the association will make a thorough canvass in the interest of the St. Paul candidate and bend every energy to securing the appointment.

The Hennepin County Bar Association will hold a banquet some time in February, probably on Justice Marshall's day. The project was decided upon at a meeting held on December 26 in court room No. 1, and President A. M. Keith was instructed to appoint a committee of nine with power to act. The banquet will be an elaborate affair and will probably be given in one of the big down-town hotels. An adjourned business meeting will be held prior to the banquet, at which an attempt will be made to amend the constitution.

Members of the Douglas County Bar Association are discussing the annual meeting and the outlook for the annual banquet, and casting about for a man to accept the position of president. Few organizations have difficulty in finding a man for the chief official position, but things are different with the bar association. During the last few years it has been a difficult task.

This is accounted for by the fact that there is nothing for the president to do during the year of his incumbency, except possibly calling out the attorneys to pay the last tribute to a deceased member. Further functions are yet to be discovered, and for this reason the probable successor to President Myron Reed is a question of much speculation. At the last banquet President Reed said in his address: "The Douglas County Bar Association is unique in one respect at least. It seems to be an organization for the express purpose of meeting once each year—about February 22—to eat, drink and be merry. I have not discovered that it exercises any other function."

There are about sixty members of the association.

MISSOURI.

L. C. Boyle, ex-attorney general of Kansas, who is a member of the Kansas City Bar Association, introduced a resolution at a special meeting of the Bar Association on December 27 in the Commercial Club rooms, that will no doubt cause Harry Henley, clerk of the Circuit Court-elect, to stop and consider. Henley's expressed intention of supplanting the clerks of the different divisions of the Circuit Courts by appointing men of his own choice and riding over the wishes of the judges, has met with the disapproval of the Bar Association, which is shown by the following resolution, which has passed unanimously:

Be it resolved, by the Jackson County Bar Association, that it is the sense of this association that the various division clerks ought of right to be appointed on the suggestion of the respective judges of the different divisions, for the reason that the intimate relation of the court and its division clerk is such that the highest assurance of competency and ability in these appointees can be best obtained by their being selected in this way, and we respectfully recommend to the clerk and circuit judges that these division deputies be so chosen.

After the adoption of the resolution a motion was carried instructing the secretary to forward a copy of the resolution to Mr. Henley and to the judge of each division of the Circuit Court The resolution was not debated but after its adoption many of the prominent members of the association said that it was a wise measure and upon a question that is of vital interest to all the practicing attorneys.

Attorney Howard E. Ball introduced the following resolution, which was directed in the same direction as that of Mr. Boyle. It was unanimously adopted:

Be it resolved by the Jackson County Bar Association, That we respectfully request the circuit clerk elect to reappoint, and the judges of the Circuit Court to approve the reappointment of James S. Chase to the position of "Condemnation Clerk" now held by him.

That we make this recommendation not only in view of the long and excellent service of Mr Chase, but because of our earnest conviction that, without disparagement to anyone who might be considered for the place, his experience and capacity in the performance of duties which require the extremest care and accuracy, render him without an equal; and the great importance to the public of the condemnation records, in our judgment, both justifies and requires his retention in that position.

NEW JERSEY.

The Hudson County Bar Association held an adjourned meeting on the evening of December 30, at the Jersey City Club. There were about fifty members present. The meeting was presided over by the retiring president, Charles W. Fuller, and the retiring secretary, Howard C. Griffiths, acted for the last time. All trace of the feeling over the

election had disappeared and the meeting was interesting and lively.

The report of the treasurer, Randolph Perkins, showed five hundred dollars in the treasury. The secretary reported that during the two years of Col. Fuller's presidency the membership of the association had increased from 115 to 217, and that during the preceding five years only twelve members had been elected. Five more new members were proposed last night.

The committee on legal ethics reported on its year's work and recommended that action be taken to secure the disbarment of George Ryerson. The matter was referred back with power to the committee.

On motion of Counselor McLean, the association directed the executive committee to call regular meetings of the association at least once every two months from September until June each year This caused some discussion, and the sentiment of the association was that meetings should be held to keep the work of the association alive.

Counselor Dixon spoke in favor of having an additional Circuit Court judge in this county. He said this would need legislation, but that it was necessary, as for two terms the bottom of the calendar had not been reached either in the Supreme Court or the Circuit, and that the prospects were that the same thing would occur this term. The matter was referred to the executive committee.

Counselor Speer spoke in favor of a permanent meeting place for the association. He stated the necessity of having a regular meeting place, and on his motion a committee was appointed to inquire into the matter. The committee consists of Otto Crouse, chairman; W. G. Bumstead, Albert O. Wall, F. H. Hull and Charles M. Vreeland.

On motion of Counselor McLean, it was decided to hold the usual annual dinner.

President-elect Speer announced his committees for the coming year. The executive committee consists of Charles W. Fuller, chairman; Warren Dixon, Leon Abbett, Henry V. Condict and James A. Gordon.

The committee on legal ethics consists of Charles D. Thompson, chairman; Robert S. Hudspeth, James P. Northrop, Marshall Van Winkle and George Holmes. The membership committee consists of Linsley Rowe, chairman; Boyd McLean, Henry Traphagen, Pierre Cook and James J. Murphy. The dinner committee consists of E. A. S. Lewis, chairman; Howard O. Griffiths, O. E. Hendrickson, Jr., Charles O. Kelly, L. M. Garrison, Peter Bentley and Elmer W. Demarest.

The meeting was adjourned by Col. Fuller, who said he would retire as president, but would continue active in the position of chairman of the executive committee, and would always hold his interest in the association. A lunch was served and the members enjoyed a pleasant social hour.

NEW YORK.

The trustees of the Erie County Bar Association met at the office of James L. Quackenbush on December 12, and elected officers and appointed committees for the coming year as follows:

President, Simon Fleischmann; vice-president, Louis L. Babcock; treasurer, Charles L. Bullymore; secretary, James L. Quackenbush.

Grievance Committee—Richard L. Ball, Thomas E. Boyd, Joseph G. Dudley, Edward L. Jung, George H. Kennedy.

Laws and Legislation—Wallace Thayer, John Conneen, Ansley Wilcox, Philip A. Laing, Henry Ware Sprague.

Entertainment—C. L. Bullymore, L. L. Lewis, Jr., Louis B. Hart, Lyman M. Bass, Roland Crangle.

Membership—James L. Quackenbush, Michael F. Dirnberger, Louis E. Desbecker, Perry E. Wurst, Henry A. Bull.

Library—Walter P. Cooke, Carl T. Chester, William L. Marcy, Charles B. Wheeler, Thomas B. Lockwood.

House—Moses Shire, Herbert P. Bissell, John Laughlin, Tracy C. Becker, William B. Hoyt.

Finance—Adelbert Moot, Robert F. Schelling, Adolph Rebadow, Henry W. Brendel, DeWitt Clinton.

Memorial—Louis L. Babcock, James McC. Mitchell, Edward R. O'Malley, Edward E. Coatsworth, Charles B. Sears.

A mass meeting of the lawyers of the bar associations of the various counties comprising the Eighth Judicial District was held in Equity Term Court room in the City Hall, Buffalo, on December 20. The purpose of the mass meeting, as stated in the call sent out to about 2,000 attorneys, was to protest against the designation of Supreme Court justices from this district to the Appellate Courts, thereby leaving the district without a sufficient number of justices to transact the business of the courts here.

The call was for 11:30 o'clock. At that hour there were fifteen lawyers in the court room. At 11:45 o'clock, when the meeting was called to order, there were not more than 100 attorneys present out of about 2,000 who had been asked to attend the meeting. The attendance did not indicate any great interest in the situation so far as the lawyers are concerned.

Justice John Woodward, who has just been redesignated to the Appellate Division for the full term of five years, dropped in at Equity Court room for a moment just before the meeting was called to order, but he did not remain.

Adelbert Moot called the meeting to order, and at his suggestion, Simon Fleischmann, president of the Erie County Bar Association, was made chairman of the meeting. Hamilton Ward, Jr., was chosen secretary.

Mr. Moot then made a verbal report for the special committee appointed by the bar association to investigate the conditions in the courts of the district. Mr. Moot stated that an examination of the court calendars showed that there are now on the calendars of the courts of the Eighth Judicial District, 2,184 live cases, which are supposed to be tried at once, and 534 dead cases.

"On the equity term calendar in this county alone," said Mr. Moot, "there are 319 cases, and throughout the district there are about 500 cases. Now it will take the entire time of one judge to dispose of those equity cases. In the special term, which is the lawyers' clearing house, there will be cases sufficient to occupy the entire attention of another judge. So there are two judges whom we must set aside for equity and special term work, leaving but three judges to handle all the civil and criminal business of this great district. I say that they cannot do the business. The court calendars of the district have been becoming more and more congested for a number of years, owing to the assignment of judges from this district to the Appellate Divisions. Now there are so many cases awaiting trial that it will simply be impossible for our five judges left in the district to dispose of them. Great suffering will surely result unless something is done.

"Now it has been suggested that if we had a special county judge to take the criminal cases, we would be in better shape. Many of the counties of this state have special county judges, and there is no reason why Erie county should not have one. That is one remedy, and I see no reason why it should not be applied.

"I think we should have at least seven justices in this district. We can get along with seven. We do not need more if the justices do their work.

"Now, let us look into the question of how it comes about that we are stripped of our judges. It seems that justices assigned to New York and Brooklyn are paid $30 a day additional. They also are paid $20 a day additional during the time they are home considering cases brought before them while they were serving in New York and Brooklyn. Naturally the country justices desire to be assigned to New York and Brooklyn. We cannot expect anything different when it is considered that even ministers are moved to change their places of residence for a consideration. Now, my belief is that there is no reason why there should be such a vast difference in the salaries of justices of the Supreme Court. In fact, I am of the opinion that a taxpayer's action would result in the decision that the payment of this additional salary in New York and Brooklyn is illegal. I also believe that it would be found that the governor has no right to assign justices to New York and Brooklyn simply because the justices now there are not able to handle the work."

Former Supreme Court Justice Lewis followed Mr. Moot.

"There has been an inclination in some quarters to blame the governor for the depletion of judges in this district," said Judge Lewis. "I do not sympathize with that sentiment, because I do not think it just. We all know that Gov. Odell has always tried to do his duty and I believe it would be a mistake to hold him responsible.

"Then who is responsible for this condition? The judges themselves are responsible. (Applause.) They are the ones who are to blame. The judges of this district have sought nominations to the Appellate Divisions where the salary is greater. Frequently we find that some of them are barely elevated to the bench in this district before they are seeking assignments to districts for the sake of the large additional compensation which they will receive there. Here the other day we read that there was a mighty struggle on between two of the eminent justices of this district for assignment to the second department. Just think of it. And the fight between them was so bitter that the governor was in great doubt as to which one he should appoint, and so he solved the question by appointing both of them. Now I say that the judges who are elected in this district should serve in the district and

not seek these valuable assignments to other districts.

"Now, who besides the judges are responsible? The members of the bar association of the district are responsible. (Applause.) If the lawyers of this district let it be known that they would not support for renomination and election those judges who seek assignments in other districts, you would find those judges less energetic in their efforts to be designated to the high salaried positions elsewhere. We must do something to remedy conditions. What we can do I do not know, but I do know that our judges have no right to leave the district. We know that judges once assigned to these higher courts are generally retained. It may be assumed that those now assigned to those courts will be reassigned when their terms expire. We find that they seldom come home of their own accord except at the time when they think it necessary to return and look after their renominations."

Mr. Moot read a set of resolutions drawn by the local committee on resolutions. They were as follows:

"Resolved, That our courts in the Eighth Judicial District are badly congested; their calendars have grown to unreasonable size, and the trial of cases is so impeded that it is often two years before a contested case can be reached.

"Resolved, That this condition is largely due to the fact that out of the ten Supreme Court justices provided us by the constitution, five are now designated to sit in the Appellate Divisions, leaving only five to hear or try all the cases that have accumulated, and the new cases that are constantly brought, when experience has shown that the work in this district is so great, and the population and work are increasing so fast, that five justices cannot do such work, and there should be at least seven justices to do it; that the Eighth District's fair proportion of Appellate Division work for the whole state does not require the assignment of more than three justices from the Eighth District to do Appellate division work.

"Resolved, That the present condition is in part due to the present great disproportion between the salaries paid judges for doing judicial work in New York or Brooklyn and the salaries paid judges for doing the same work elsewhere; that there should be a readjustment of these salaries so that, making due allowance for the increased cost of living in New York or Brooklyn, a judge, nevertheless, shall no longer receive more than twice as much for doing judicial work in New York or Brooklyn instead of doing such work in the Eighth Judicial District, thus tempting judges to seek assignments in those cities, that they may receive this great increase in compensation for rendering judicial service; that extra allowance should no longer be made for doing judicial work in their hands, after judges return home from New York, because of the temptation thus created to unduly delay decisions, and because of the scandals that may result therefrom.

"Resolved, That judicial designations should be made by the judiciary of the state, and the judicial department of this state should be rendered independent of the executive department or the legislative department, in accordance with the principles long since laid down by the most eminent authorities and jurists who have studied this subject.

"Resolved, That it is the sense of this meeting that not more than three justices of this district should be assigned to do Appellate Division work.

"Resolved, That a copy of these resolutions be transmitted to the governo , with the request that he take such action as will relieve this judicial district from its present just cause for complaint."

Seward A. Simons attacked the resolutions on the ground that they implied a reflection on the honesty of the judges of the district and also upon the governor.

"I know," said Mr. Simons, "there is no member of this bar w o would subscribe his name to these resolutions and I move that they be referred to the committee on resolutions for revision and that they be reported back to a future meeting of the bar."

The motion was carried.

John W. Fisher moved that the resolutions include a resolution requesting the Legislature to pass the pending constitutional amendment providing for additional justices in this judicial district.

This was also referred to the committee on resolutions.

The meeting then adjourned.

OHIO.

The executive committee of the Toledo Bar Association, met recently with President Rhoades in his office in the Nasby. Judge James M. Ritchie, by a time-honored custom, was made chairman of the committee, as the bar of Toledo has no more zealous worker. In the absence of Secretary Willard, E. H. Rhoades officiated in that capacity. Committees to serve for the new year were named as follows, there being little change from the old ones:

Committee on Law Reform—W. H. A. Read, chairman; Charles T. Lewis, E. J. Marshall, George B. Boone and Charles F. Watts.

Committee on Grievances—Charles S. Northup, chairman; James T. Greer, Clayton W. Everett, John M. Ormond, T. J. McDonnell, Ashton H. Coldham, Emory D. Potter.

Committee on Admissions—Richard M. McKee, chairman; Frederick J. Flagg, U. G. Denman, O'Brien O'Donnell and Charles K. Friedman.

The committee ordered 300 cards having the names of the officers and committees printed on one side and a list of the members on the other.

The bond of the treasurer was fixed at $500 and his fees at 10 per cent. of the amount collected. His report was referred to the usual auditing committee. The members talked over the banquet matter which was brought up at the annual meeting of the association, but nothing has been done. The meeting adjourned subject to the call of the chairman.

PENNSYLVANIA.

A largely attended meeting of the Allegheny County Bar Association was held on December 3, which action was taken on the death of Lewis McMullen. The officers were: President, Judge Collier; vice-presidents, Judges Stowe, Frazer, McClung, Over and Buffington, Solomon Schoyer, Jr., Marcus Woodward, D. T. Watson and George Shiras III; secretaries, W. K. Shiras, R. H. Jackson and Leander Trautman; committee on resolutions, W. M. Watson, Thomas Patterson, C. C. Dickey, Thomas H. Davis and J. J. Miller. Addresses were made by Judge Collier, Thomas Patterson, Judge McClung, T. H. Davis, George W. Acklin, J. J. Miller and J. McF. Carpenter. Appropriate resolutions were adopted.

RHODE ISLAND.

Not the largest, perhaps, in attendance, but one of the largest in interest and enjoyment, of the banquets held by the Rhode Island Bar Association, took place at the beautiful Eloise recently. The occasion was graced by the presence of former Chief Justice Charles Matteson, recently returned from his two years' sojourn in Europe. He was cordially greeted. Judge Rogers, who arrived late, was accorded a big ovation as he walked to his seat at the guest table. Other guests included Chief Justice Stiness and Associate Justices Tillinghast, Douglas and Dubois of the Supreme bench.

The speakers of the occasion were Hon. Walter S. Logan, an eminent member of the New York bar, whose subject was "Interstate Commerce and the Constitution," and Edwin C. Pierce, of this city, who treated of "Probate Courts in Rhode Island." Both addresses were thoughtful and instructive and were closely followed.

Mr. Logan was felicitously introduced by President Colwell, and he was given a rising salute. He quoted from the constitution of the United States to the effect that "the Congress shall have power * * * to regulate commerce * * * among the several states," and then went on to explain the formation of the convention which brought forth the constitution, paying a tribute to the genius, ability and judgment of the men who participated in the framing of that instrument. After further prefatory remarks he proceeded to say on the trust question in its relation to the interstate commerce provision:

"I see no occasion for a constitutional amendment. The instrument which has stood the test of all the changed conditions which the nineteenth century brought about, including the mid-century Civil war, is good enough to start the twentieth century with. The light of Washington's wisdom never before shone so bright as it does now a hundred years after his death. The constitutional solvent which has been found so effective a solution for the troubles we have had will, I believe, be found no less effective for the troubles of the present day, without any change in the language of the constitution itself. It will be time enough to talk about amending the instrument when we have put into operation all its existing potentialities.

"Let us hope and trust that we shall never come to imitate our Latin sister on the south and enter upon a career of constitutional amendment.

"So far as relief from our present evils is concerned, if it can not be obtained without the amendment of the national constitution, it is my opinion that we had better make the best compromise we can and surrender to the trusts at once.

"I believe, however, that full, complete and perfect relief can be found under the provisions of the constitution as it stands. There is little doubt but that the relief is needed. No one who has been a close observer of the signs of the times can doubt that the trust question is the most serious question that our nation has to confront to-day

—in my judgment the most serious question it has ever had to confront.

"The whole genius of our institutions is founded on competition. Our Anglo-Saxon civilization has grown up under competition. The combinations have now become so great that competition is being destroyed and monopoly seems to be coming to take its place. We have almost, if not quite, reached the point where if any one wants a pound of meat he can get it only from the beef trust, or some of its agencies. If he wants anything in the iron and steel trade there is only one seller. If he wants tobacco he must go to the American Tobacco Company; if he wants sugar, to the American Sugar Company, or to the Oxnard Company —and the rumor is that the two are about combining to make a still more perfect monopoly. The anthracite coal trade is practically under one head, and the production of the other necessities is being rapidly taken over by giant corporations which thus become monopolies. The worst phase of the monopoly—worse even than 30-cent beef and $20 coal—is that there is a monopoly of employment. It is fast coming to the point where any one who seeks employment can find only one employer.

"Our fathers rose in their majesty and their might against the despotism of George the Third, but the infatuated English king was guilty of nothing more serious than an attempt to make the people of the colonies pay a few hundred dollars in taxes on tea against their protest. Many of us now think that His Majesty George the Third presented not nearly so serious an issue to our fathers as His Majesty Mr. J. Pierpont Morgan presents now to their sons.

"We may differ—we do differ—as to the magnitude of the evil, but we all agree that it exists. We may differ, and we do differ, as to the extent of the danger, but we all agree that there is a danger. We may differ, and we do differ, as to the degree of importance to be attached to the question, but we all agree that it is important that a solution should be found and relief obtained.

"I believe that the solution we are seeking is to be found in the twelve words of the Constitution of the United States which I have quoted at the beginning of my address.

The effect of this provision of the constitution is to practically abolish state lines and state jurisdiction so far as trade and commerce are concerned, whenever Congress chooses to exercise its jurisdiction in the premises.

"Transportation is now almost entirely in the hands of corporations, and the process of the combination of transportation corporations has been going on at such a rate during the last few years that some of the organizations thus created have become colossal, and the power which they exercise in many states is always supreme, and sometimes dangerous almost beyond the power of words to express.

"Not only is the tranportation part of interstate commerce in the hands of great corporations, but the production of the things transported is in great measure in the hands of corporations whose business is by no means confined to any one state.

"It is not alone transportation companies and producers that do interstate commerce, but far the larger part of the business of the merchants of the land is interstate business.

"This mercantile business is coming more and more to be transacted by corporations. Nearly all of the large wholesale establishments and most of the retail department stores are now under corporate management. The business partnership is disappearing and the business corporation is coming to take its place.

"The power to regulate commerce 'among the several states' in the United States is practically the power to regulate all trade and commerce in the United States. The power to regulate commerce among the several states carries with it therefore—through the power over the trader as well as the trade—power enough over the commerce that is carried on within the state itself to practically control it. Little difficulty will be found by Congress in devising a law which shall practically regulate all the business of merchants, manufacturers and transportation companies, a part of whose business is interstate commerce.

"I must differ, therefore, with our most excellent president of the United States upon the question of the necessity of an amendment to the Constitution. I fail to see wherein the Constitution as it now stands does not give to Congress and the national government more power over trade and traders than it will ever have occasion to exercise. I do not see why Congress can not, if it chooses, prescribe what kind of commerce shall be carried on between one state and another, under what conditions it shall be carried on and by what class of persons or corporations. It may if it will provide that no commerce among the several states shall be carried on by any corporations, and, as the greater includes the less, it may prescribe the kind of corporation that may engage in interstate commerce, the manner of its incorporation and the kind of executive or judicial supervision that shall be extended over it, and it may adopt the most stringent regulations to prevent it from exercising anything like a monopoly in the business in which it is engaged. After Congress has exhausted its power the only field left for uncontrolled corporations will be the trade done by traders whose trade is confined to a single state. Such a corporation would be too small to excite apprehension.

"Let Congress, for instance, pass a law as follows:

"Be it enacted, etc.

"Section 1. No corporation shall engage in commerce between any one state and any other state if in its organization or its methods of doing business it creates or tends to create a monopoly either in the production or distribution of products beyond what such prices would be were it not for such corporation or the business transacted by it.

"Section 2. The Circuit Court of the United States shall have jurisdiction at the suit of any interested party or of the attorney-general on behalf of the United States, to entertain suit for an injunction to restrain the violation of the provisions of this act or any of them, or for damages for such violation, or both, and to render appropriate judgment in such suit.

As I construe the interstate commerce clause of the Constitution, such statute is not only clearly within the power of Congress to pass, but is only a partial and incomplete exercise of that power. Congress may go very much farther without going so far as to prohibit, as it might, any corporation from engaging in interstate commerce.

"It might, for instance, pass a national incorporation act without stringent provisions against monopolies or the unreasonable increase of price, and require every corporation doing any interstate business to take out its charter, under that act. It might establish a bureau of corporations, with power to investigate the business of every corporation engaged in interstate commerce and to adopt appropriate measures or take appropriate proceedings to protect the people. It might establish a department of interstate commerce, or extend the power of the present interstate commerce commission, and give that department or this commission plenary power to exercise supervision over interstate commerce whether carried on by corporations or individuals.

"As there is no limit to what Congress may do if it will in the way of regulating interstate commerce except the limit imposed by the other and prohibitory provisions of the Constitution, the question becomes not one of power but of discretion. The thing to be desired is legislation that shall curb the evils of the monopolies without embarassing trade that is legitimate and beneficial to the community.

"The terms of my proposed statute are suggestive only. I do not think that the man lives who could to-day formulate the terms of the final act on that subject. I am very far from thinking that I have formulated a statute which Congress will pass as it stands or which would remain unamended even if Congress should adopt it. I think, however, that I am on the right track and that the legislation proposed is in the right direction.

"The criticism may be made upon the statute as I have formulated it, that it is too indefinite, that it does not define clearly enough what constitutes a monopoly, and that it does not furnish a rule by which it may be determined whether the business of a corporation does or does not tend to increase prices. I plead guilty to the charge. I think it is probable that the act if it finally becomes a law will contain many more details and be of much greater length than the act as I have formulated it.

"It may be objected also that the authority to institute suits contemplated under the act should be given to the attorney-general alone, and that the courts should not be open to private parties who many consider themselves aggrieved. On this subject I should take issue with the critic I think that any citizen who is aggrieved should have the right to seek for himself the remedy which the statute gives and that the courts should be open to him for that purpose. I do not think that serious abuses would result. We can imagine, it is true, how a corporation attempting to do a legitimate business might be required to meet a multitude of baseless suits, and that fair trade could suffer. I do not think, however, that this would happen.

"Most efficient and valuable work towards the solution of these most important questions has been done and is being done by the commission on uniformity of legislation, of which my good friend and yours, Hon. Amasa

M. Eaton is the honored and accomplished president.

"One of the subjects on which that commission is endeavoring to secure legislation is a national incorporation law. In such act will naturally be incorporated provisions regulating interstate commerce so far as it is carried on by corporations, and it may be that the legislation that I am advocating to-day will find place upon the statute book as the result of the work of Mr. Eaton's commission. I know of no man more competent to lead in such an effort, or whom I would more gladly follow, than Mr. Amasa M. Eaton.

"I note that it is expected that President Roosevelt in his message to Congress is likely to recommend the establishment of a bureau of interstate commerce. That may be very well as far as it goes if it does not try to go too far and if its work is limited to the diagnosis of the disease without attempting to apply the remedies, for of one thing I am firmly convinced, and that is that whatever remedy is adopted to cure the trust evils from which the community suffers, the application of the remedies should be in the hands of the courts rather than of the executive department of our government.

"A great deal has been said about government by injunction. There have doubtless been ill-considered injunctions granted by our United States courts, but I think they are few, much fewer than the mistakes that have been made in executive departments of the government. The American judge is as impartial as it is possible and the reproach that has been leveled against what is called government by injunction, should be directed rather against the law-making than the law-interpreting power. In the labor controversies the writ of injunction has been ordinarily invoked by the corporate employers against the workmen. It has been looked upon often as an interference by the courts on the side of monopoly against the people. The statute that we are considering is one which will give the people a better opportunity to invoke the writ of injunction against the monopolists, and we may fairly assume that the courts will be quite as astute to administer the law in favor of the people as against them. Government by injunction, in the way in which the proposed statute would tend to establish it, will, I think, be found the most beneficial and popular government that has ever been established by man.

"Of one more thing I am sure, and that is that the men to meet the crisis and to guide the country safely through the dangers that surround it, are the lawyers of the land. In this day of doubt and question the American people instinctively turn to the American bar. I believe they will not turn in vain. The lawyers of to-day are the leaders in thought and in action; yes, when the time of national peril comes they have often proved supreme among the nation's defenders. The hero of the war of 1812 was not a West Point graduate or a man brought up to the profession of arms, but Andrew Jackson, the lawyer. The saviour of the nation in the Civil war, was not Grant or Sherman, or Farragut, but Abraham Lincoln, the lawyer. The great hero of the Spanish war was not Dewey, or Sampson, or Schley, or Miles or Shafter or Merritt, or Roosevelt or Joe Wheeler, but the man who as supreme commander of the army and navy of the United States, guided with firm hand and unerring judgment the movements of fleets and armies as well as the counsels of statesmen and the negotiations of ministers, so that there was brought forth an honorable and glorious issue—William McKinley, the lawyer.

"The lawyer can not live without his fee, but he does not live for his fee alone. He values his daily bread, but he values more even than that the honorable name of his profession and his own honor as a member of it."

WEST VIRGINIA.

The annual meeting of the State Bar Association opened here on December 30 and continued for two days, terminating in a big banquet at the Hotel Windsor. No other meeting of the state bar has been so important, because there are pending questions of vital concern to the state. They were touched upon elaborately by President George Price, of Charleston, in his annual address.

He referred to the constitutional amendments, particularly to the one which requires the appointment of a fifth judge to the Supreme Bench, and urged the association to request the governor to forget all politics and localisms in making his appointment.

The bar opposed the abolition of the criminal courts in the larger counties, and demanded more liberal salaries for the Supreme judges. The bulk of the report was taken up by a discussion of the relations between capital and labor. President Price said one thing could be relied upon—no settlement can be reached until labor's rights are defined by law.

The association elected officers, as follows: Hon. C. Wood Daily, of Elkins, president; vice-presidents, John J. Davis, of Clarksburg; A. M. Cunningham, of Parsons; Malcolm Jackson, of Charleston; H. B. Woods, of Ritchie; Clark May, of Lincoln; secretary, N. C. Hubbard, of Wheeling.

WISCONSIN.

The Wisconsin State Bar Association will hold its next session in Milwaukee, although as a general thing the meeting has been held in Madison. The meeting will be held in February and former Chief Justice Barclay, of Missouri, now an associate justice on the Supreme bench of the United States, will deliver an address before the members. A letter has been sent by the officers of the association to Associate Justice John Marshall Harlan, of the United States Supreme Court, congratulating him upon the completion of his twenty-fifth year of service on the bench. The letter is signed by Gen. Winkler, the president of the association, and by C. I. Haring, the association's secretary.

At the annual meeting of the Milwaukee Bar Association held in Judge Williams' court room on December 13, many subjects of importance were presented, but action on them was confined to discussion. There seemed to be a general feeling that the association has been apathetic in many ways, some of which were commented upon rather pointedly, and remedial recommendations were made and received with little promise of immediate reform.

Senator Austin expressed the opinion that the association should do something besides assemble at annual banquets and memorial meetings. He thought the association's committee laws and legislation should examine the bills to be presented at the next session of the Legislature, which proposes changes in legal practice or the statutes, and report to the association so that the organization may take a stand and labor for or against the passage of the bills, as may be decided.

Gen. Joseph B. Doe urged that more attention be paid to the investigation of charges of unprofessional conduct on the part of members of the association. He also urged that the association should take an active interest in nominations for the judiciary. James G. Flanders, chairman of the judiciary committee, took the position that the duties of the committee were confined to the investigation of charges against members and that the prosecution of the offenders rested with the association after the committee had presented its report.

Charles E. Estabrook, chairman of the committee on legal education, presented this: "It has occurred to the committee that possibly the time has arrived for us to favor a statutory requirement that all applicants for admission to the bar should have at least a high school education or its equivalent." He reported further that the system of having a state commission for the examination of candidates for the practice of law, adopted by Wisconsin in 1885, has been embraced by a number of states.

The question of creating two new Circuit courts to take the place of the two Superior courts, which would be in fact a change of name only, was presented and passed over with little comment.

A portrait of the late Judge R. N. Austin was presented to the association by his estate. On motion of James M. Pereles the association voted to have the portrait painted of the late Judge Eugene S. Elliott and the same be placed in the court room in which he presided. Gen. Winkler urged the members to take an active interest in the annual meeting of the Wisconsin Bar Association, which will be held in Milwaukee in February. The old officers of the association were re-elected by acclamation, as follows: President Gerry W. Hazelton; vice-president, Thomas J. Pereles; secretary, Cornelius I. Haring; treasurer, Rip Renkema. Executive committee—Glenway Maxon, J. E. Roehr and A. G. Weisert.

The new members admitted to the association were: Robert Wild, E. J. Henning, George E. Ballhorn, R. S. Witte, Edward T. Fox, Duane Mowry, Jacob Fehr, Jr., Gustav G. Gehry, S. R Simon, Herbert J. Piper, Erwin Plein Nemmers, Edwin J. Gross, Ernst A. Kehr, Henry J. Ketelle, Joseph W. Marschutz, Dudley B. Buell, Frances P Boden, Willett M. Spooner, Fred C. Ellis, C. A. A. McGee, Frederick H. Remington, John H. Moss, Benjamin Poss, W. J. Kershaw, R. O. Bowman, A. W. Fairchild, Thomas T. Churchill, W. B. Rubin and W. C. Zabel.

THE BAR AT LARGE.

PERSONAL AND PARTNERSHIP NOTES.

(Attorneys are requested to send notices of change of address, organization and dissolution of partnership, etc., for insertion. No charge is made. —Ed.)

NEW ENGLAND STATES.

CONNECTICUT.

Bridgeport.—Among the many important changes that occurred upon January 1 was the formation of a new firm to be known as Phelan, Toomey & Phelan, with offices at 21 Sanford building. The new firm includes the Hon. John J. Phelan, former Secretary of State, Ex-City Attorney J. D. Toomey, Jr., and Patrick Phelan.

Bridgeport.—Judge Edward P. Nobbs and Deputy Judge Henry C. Stevenson, of the Probate Court, have signed articles of partnership, and will practice law under the firm name of Nobbs & Stevenson, at the expiration of the present Probate term, which ends January 7. They will have also associated with them Attorney Clifford B. Wilson, who has been with them in the Probate office for the past four years. The firm has leased offices in the new part of the Warner building in Fairfield avenue.

New Haven.—A. H. Barclay, of the firm of Ely & Barclay, has been appointed assistant secretary and attorney for the Aetna Indemnity Company for New Haven and vicinity.

New Milford.—F. M. Williams has moved his office from Town Hall building into roomy and pleasant quarters over Riddiford's store on Bank street.

MAINE.

Augusta.—Announcement has been made of a new firm. Mr. Frank L. Dutton has been admitted to the firm of Heath & Andrews, and the new firm name will be Heath, Andrews & Dutton.

Belfast.—John R. Dutton has opened an office at 14 Main street.

Machias.—A. D. McFaul has removed his office from the Walling block on Main street to Room 1 in the Eastern Trust & Banking Company block on Centre street.

MASACHUSETTS.

Athol.—William E. Kinney will hereafter have his office with Daniel P. Kimball, in the Cook block on Main street.

Clinton.—The firm of Fay & Dietzman has been dissolved. Mr. Fay will retain his present office. Mr. Dietzman's plans for the future have not been made.

Clinton.—Thomas F. Gibbons has opened an office in room 11, Bank block.

Gardiner.—Marshall M. Thayer has opened offices in the Kane block.

Palmer.—E. E. Hobson, who has for nearly a year been associated with T. W. Kenefick, has withdrawn and opened an office for himself in the rooms recently occupied by Shea & Company, brokers, in the Holden block on Main street.

Springfield.—Among the recent removals in Springfield are those of Robert S. Folsom, Frederick G. Wooden and C. H. Beckwith, whose offices are now in the Court Square Theatre building.

Worcester.—Elmer C. Potter and John C. Clough have formed a copartnership, with offices in the State Mutual building.

NEW HAMPSHIRE.

Berlin.—The firm of Daley & Goss, one of the oldest law firs in this section, has dissolevd partnership, the dissolution taking effect January 1. Mr. Daley will retain the office and carry on the business.

Concord.—Harry J. Brown, for some years associated with the firm of Eastman & Hollis, has occupied offices in the new James R. Hill block. His successor with Eastman & Hollis is John F. Pierce, of Chester, Vt., who was recently admitted to the New Hampshire bar.

Keene.—Frank T. Vaughn has purchased an interest in the practice of Don H. Woodward, and the new firm will bear the name of Woodward & Vaughn.

Manchester.—John B. Cavanaugh has moved his office from 924 Elm street to rooms 105-107, The Beacon, at 814 Elm street.

VERMONT.

Bennington.—Edward C. Bennett has opened an office in the old Park building on South street. Mr. Bennett studied law with Barber & Darling and was admitted to the bar two years ago. For the past three years he was deputy State auditor, and for the past year town grand juror. He has also been executive clerk to Governor McCullough.

St. Albans.—The partnership between H. Elmer Wheeler and Eugene M. Blake has been dissolved.

Vergennes.—Russell W. Taft has opened a branch office at Vergennes in the office of L. F. Benton, and is in that city Saturday of each week. During his absence the office is in charge of A. D. Billings.

MIDDLE ATLANTIC STATES.

NEW JERSEY.

Jersey City.—After January 1 the following will be the make-up of Jersey City's law department: Corporation Counsel, George L. Record; Corporation Attorney, Robert Carey; Assistant Corporation Attorney, I. Faerber Goldenhorn. Mr. Record will be reappointed for a full term of two years at $5,000 a year. Mr. Carey will be promoted from the position of Assistant Corporation Counsel to the position heretofore held by John Wahl Queen. This appointment will also be for two years at a salary of $3,500 a year. Mr. Goldenhorn is to be appointed for one year for Mr. Carey's unexpired term, at a salary of $1,500 a year. Assistant Corporation Attorney Goldenhorn will be the new member of the city's law department. His selection was brought about largely by Col. S. D. Dickinson.

Newark.—It has been authoritatively announced that the resignation of Justice Gilbert Collins from the bench of the Supreme Court, to take effect at the opening of the February term of that tribunal, will be placed in the hands of Governor Murphy soon after the first of the year. Two men were talked of as possibilities for the place. They are Francis J. Swayze, Circuit Court judge of this county, and John A. Blair, county judge of Hudson. Judge Swayze's elevation to the Supreme bench was thought by many lawyers and officials to be more than a possibility. One other man eminent in legal affairs of the State was named as among those whom Governor Murphy had in mind for the justiceship, but it was thought by well-informed persons that the final choice for the place would probably be between Judge Swayze and the third man mentioned, whose name is being carefully guarded as a State secret.

Orange.—The Orange firm of Blake & Howe has now become Howe & Davis, the members being William Reed Howe and Thomas A. Davis. For many years the name of Blake & Howe has been the style of the firm, but John L. Davis died about four years ago and Mr. Blake was admitted to partnership with the junior member of the firm. The original firm was Blake & Freeman, Wilberforce Freeman, of Orange, being Mr. Blake's partner, but this was dissolved, and Mr. Blake admitted his son-in-law, Mr. Howe.

NEW YORK.

Buffalo.—Frederick Haller, Assistant District Attorney, who retired with Mr. Penney and his staff on January 1, has formed a partnership with John F. Patterson, under the name of Haller & Patterson, with offices on the seventh floor of the Mutual Life building.

Canaseraga.—Whiteman & Hill, of Hornellsville, have decided to open a branch office at Canaseraga.

Dunkirk.—The firm of Stearns, Warner & Farnham, of Dunkirk, has dissolved. Mr. Stearns will practice separately, while Warner and Farnham will continue their association.

Penn Yan.—Calvin Huson has formed a partnership with Spencer F. Lincoln, formerly of Naples. The firm will be known as Huson & Lincoln.

Rochester.—A new partnership has been announced and will be known as Slocum & Wallace. The firm will have offices on the fourth floor of the Elwood block at the Four Corners. The senior member of the firm, George F. Slocum, is one of the recently appointed Deputy Attorney Generals, and is one of the best known members of the Monroe County bar. The junior member is James M. H. Wallace. Mr. Wallace studied law in the office of Fletcher & Whitbeck in this city and was admitted to the bar last year.

Schenectady.—A partnership has been formed by former Judge S. W. Jackson and Homer Strong. Their offices will be in the Myers block.

Utica.—Justice Milton H. Merwin has resumed active practice of the law after his retirement from the Supreme Court bench and will have as his partner his son, James H. Merwin, who studied with Miller, Fincke & Brandegee and with his father. They have taken offices on the third floor of the Mann building.

Watertown.—Watson M. Rogers, of the firm of Rogers, Atwell & Rogers, in Watertown, has assumed his duties

as justice of the Supreme Court, and the firm is dissolved. Hereafter the firm will be Atwell & Rogers, the other members, Joseph Atwell and John B. Rogers ,continuing the business in the same offices.

PENNSYLVANIA.

Allentown.—A partnership has been formed by Congressman-elect M. C. L. Kline and Marcus S. Hottenstine under the firm name of Kline & Hottenstine, with offices in the Stiles building.

Bradford.—Edwin E. Tait, whose offices in Odd Fellows' Hall were burned, has secured offices for the present on the third floor of the Auerheim building. After a couple of months he will locate permanently in the new Schonblom building, corner Main and Kennedy.

Gettysburg.—C. E. Stahle has removed his law office from the Compiler building to newly opened rooms in his residence, next door to the Compiler office.

Kittanning.—Hon. Calvin Rayburn has associated with him in the practice of law Samuel H. McCain.

Lancaster—With the advent of the new year a new firm is announced in Lancaster, formed by Richard M. Reilly and Edward D. Reilly, under the firm name of Reilly & Reilly. Their offices are located at 413, 415 and 417 Woodworth building.

SOUTHERN STATES.

ARKANSAS.

Little Rock.—The firm of Oliphint & Settle has been dissolved, Mr. Settle continuing in the present office.

GEORGIA.

Atlanta.—Bryan & Alexander, a partnership composed of Attorneys Shepherd Bryan and Henry A. Alexander, is the name of a new firm. The offices are located in rooms 204, 206 and 208 Equitable building.

Atlanta.—The partnership existing between Robert Zahner, Joseph Samuel Slicer and Joseph Clayton Logan has been dissolved by mutual consent.

Moultrie.—Hartsfield & Watson is the name of a new firm which will practice in Moultrie.

Savannah.—The law firm of Adams, Freeman, Denmark & Adams was dissolved on New Year's day by mutual consent. Judge Samuel B. Adams and his son, A. Pratt Adams, will form a copartnership and continue practice in the present offices, where a few minor changes will take place. Mr. Freeman will have offices on the same floor. Mr. T. N. Denmark will remain in the office of Adams & Adams. The firm that is dissolved is one of the most prominent at the Savannah bar.

KENTUCKY.

Henderson.—Ex-Governor John Y. Brown and Robert D. Vance have recently formed a partnership under the name and style of Brown & Vance.

Louisville.—The election of Judge Thomas R. Gordon to a circuit judgeship has necessitated a dissolution of his partnership with his son, Robert G. Gordon. The latter has formed a partnership with Clarence Dallam and the new firm will be Dallam & Gordon.

Williamsburg.—George P. Johnson and James B. Snyder have formed a partnership, with offices in the Bank building.

LOUISIANA.

Shreveport.—William H. Wise, E. H. Randolph and Allen Rendall have formed a co-partnership with offices at 535 Spring street. The firm name is Wise, Randolph & Rendall.

SOUTH CAROLINA.

Charleston.—The announcement has been made of the formation of a new firm compcsed of Messrs. W. Turner Logan and John P. Grace, who will practice under the name of Logan & Grace, with offices at 59 Broad street.

TENNESSEE.

Knoxville.—Chas. M. Sanford, of Smithport, Long Island, N. Y., has arrived in Knoxville, and has formed a partnership with C. W. Lester. They will occuyp offices on the first floor of the Deaderick building.

Memphis.—The firm of Estes & Hamner, consisting of L. H. Estes and William F. Hamner, has been dissolved, Judge L. H. Estes retiring.

CENTRAL STATES.

ILLINOIS.

Aurora.—A new partnership to be known as Raymond & Newhall was recently launched in Aurora when the firm opened its offices in the Coulter block. J. M. Raymond, who has been carrying on an extensive practice in this city for the past ten years, has formed an alliance with J. K. Newhall, of the firm of Murphy, Alschuler & Newhall. The firm of Murphy, Alschuler & Newhall will be known hereafter as Murphy & Alschuler.

Chicago.—Howard M. Cox, heretofore associated with the late Mr. Jesse Cox, announces that he now has offices with former Judge Lysander Hill and Charles Southworth Hill, who will act as counsel. Offices at Suite 1133 Monadnock building, corner Jackson boulevard and Dearborn street. Telephone Harrison 575.

Chicago.—William Annan Taylor has removed his office from 1518 Ashland block to Suite 631, The Rookery, corner of Adams and La Salle streets. Telephone Harrison 2502.

Chicago.—John S. Runnells has resigned as consulting counsel of the sanitary board. He has held the position six years and received $4,000 a year salary.

Chicago.—J. W. Smith has removed his office from the Association building to 817 Ashland block.

Chicago.—Frederick W. Job has resigned from the chairmanship of the State Board of Arbitration to become the secretary of the Employers' Association of Chicago.

Chicago.—The firm of O'Donnell & Brady has been dissolved. Patrick H. O'Donnell has taken offices in the Ashland block, Suite 1218. He will have associated with him William Dillon, brother of the celebrated Irish member of the English Parliament, of that name, and Clarence A. Toolen. Mr. O'Donnell is now lecturing on medical jurisprudence at the American Medical College in this city, and has been engaged to lecture to the law and medical classes combined at the Valparaiso Normal College of Indiana.

Edwardsville.—Judge W. P. Early has opened an office in the Begemann building on the east side of Court square.

Ottawa.—Beginning with the new year changes will be noted in the business relations of a number of attorneys in the city of Ottawa. Lee O'Neil Browne and Herbert C. Wiley have formed a partnership under the firm name of Browne & Wiley. They will occupy the new office now occupied by Mr. Wiley in the Leland building on La Salle street. Mr. Browne is the well-known member of the Legislature and one of the foremost criminal lawyers in the county. Mr. Wiley is the son of the late Samuel Wiley, and is well known in business and professional circles. Armstrong & Armstrong is another firm that will begin business at an early date. It will be composed of Supervisor Marshall N. Armstrong and John H. Armstrong. M. N. Armstrong is an old and established practitioner at the La Salle county bar, and his nephew, John H., is a brilliant young lawyer who moved here from Sheridan over a year ago. They will have offices in the Gedney building at the corner of Court and Main streets.

Ottawa.—Judge H. M. Johnson and Irwin I. Hanna, while not having formed a partnership, will have offices together in the rooms lately vacated by the Home Telephone Company in the Moloney building. Mr. Johnson assumes the practice of his profession after eight years on the bench as a judge of the County Court. Mr. Hanna represented South Ottawa for several terms on the Board of Supervisors, and at present is associated with Mr. M. N. Armstrong.

INDIANA.

Angola.—James W. Nichols, formerly of Knox, has opened an office in Angola.

Crawfordsville.—President Roosevelt has appointed Albert B. Anderson, of Crawfordsville, to succeed John H. Baker as judge of the Indiana District Federal Court.

Fort Wayne.—The firm of Morris & Woodworth has dissolved partnership, which means the retirement from practice of Judge John Morris. He is eighty-six years old and has been practicing law since he rode to Indianapolis on horseback to attend the Legislature.

Fort Wayne.—Owing to the election of Judge Owen N. Heaton to the bench of the Superior Court, his connection with the well-known law firm of Vesey & Heaton was terminated by the law which prohibits a judge from engaging in practice in the State courts. Other changes in the firm have been announced, Ben Heaton withdrawing and forming a law partnership with Carl Yaple, who has also been connected with the firm. They will open an office in the Citizens' Trust building. Judge Vesey and Allen J. Vesey, brothers, remain in the present quarters in the Tri-State building, under the firm name of Vesey & Vesey. Judge Vesey and Judge Heaton were in partnership for twelve years, except for the little more than a year that Judge Vesey presided by appointment of Governor Mount over the Superior Court. The firm built up one of the most lucrative practices in the city and has developed a clientage far beyond the county lines.

Fort Wayne.—Creighton H. Williams, who has for some time had his

office with Judge Alden, preparatory to the practice of law, has sent out cards saying that he had opened an office for himself in rooms over 706 Calhoun street.

Greenfield.—Ex-Mayor John F. Eagan and Edward P. Glascock, of this city, have formed a partnership and have opened offices in the Randall block.

Muncie.—The firm of Orr & Stradling, of this city, has been dissolved after several years of practice. Frank Stradling will leave Muncie for Omaha, Neb., where he will permanently remain.

Terre Haute.—The firm of Whittaker & Duvall has been dissolved.

IOWA.

Keokuk.—Judge Felix T. Hughes, of the Superior Court of this city, and Hazen I. Sawyer, city attorney, have formed a partnership. Mr. Hughes will resign his office, although his term does not expire until April 20, at which time W. L. McNamara will succeed him. He has stated that he will ask the Governor to appoint Mr. McNamara to fill the unexpired term of about four months' time. Mr. Hughes is an ex-mayor of this city, and for several years was president of the Keokuk & Western Railroad, and also acted as general counsellor for the road. Mr. Sawyer is a nephew of the Hon. John N. Irwin. He is now serving his third term as city attorney.

Tipton.—Judge J. H. Preston, the senior member of the firm of Preston, Grimm & Moffit, has been again after eight years connection with the firm elected to the district bench and the first of January assumed his duties. Hon. J. H. Trewin, who has been a member of Crisman, Trewin & Holbrook, at Cedar Rapids, has taken his place, and the new firm is now Grimm, Trewin & Moffit. Offices will be continued as heretofore, both at Cedar Rapids and Tipton.

Waterloo.—J. C. Murtaugh and E. P. Daines have opened offices at the corner of West Fourth and Commercial streets.

MISSOURI.

Kansas City.—E. E. Yates, who recently resigned as State Insurance Commissioner, will again engage in practice in Kansas City. He has formed a partnership with T. A. J. Mastin and Charles M. Howell. Mr. Mastin and Mr. Howell were associated with Mr. Yates in his office when he was county prosecutor.

OHIO.

Celina.—A partnership has been formed between W. E. Tou Velle and E. H. Ford, and the new firm will be located in Mr. Tou Velle's rooms above the First National Bank.

Cincinnati.—The two well-known attorneys, Vincent Schwab and Chester Merrill, have recently gone into partnership, with offices at the Goodall building, Ninth and Central avenue.

Dayton.—The firm of Gottschall, Crawford & Limbert has been dissolved, and Ira Crawford has opened offices in rooms 1 and 2 Beckel building.

Defiance.—The firm of Baker & Phelps, with H. G. Baker and E. J. Phelps as partners, has been dissolved, the former retiring. He will leave Defiance to engage in the banking business in Oklahoma City, Okla. The firm was one well known in legal circles in northwestern Ohio.

MICHIGAN.

Charlotte.—The well-known firm of Huggett & Dann has been dissolved, and Mr. Dann will occupy the rooms in the Lockard block formerly occupied by W A. Coutts. Mr. Huggett will remain in the offices where he has been many years.

MINNESOTA.

Hibbing.—Thomas S. Silliman has opened an office in the new State Bank building.

Winona.—Earl Simpson, having resigned his position with the State Railway and Warehouse Commission, has entered into practice at Winona. He will have his offices with his father, Hon. Thomas Simpson, and his brother, County Attorney George T. Simpson.

Fremont.—J. F. Waggoner, formerly of Kansas Station, has opened an office here in the G. A. R. block on Front street.

Greenville.—On January 15, 1903, a new firm was established in Greenville under the title of Chenoweth & Miller, and they will have their office located in the Union block, on South Broadway.

Toledo.—The firm of James & Reverstock has been dissolved. When Probate Judge I. I. Millard retires from office a partnership will be formed consisting of Ben F. James, I. I. Millard, Thad Powell and George Millard, with offices in Toledo and Bowling Green.

WESTERN STATES.

CALIFORNIA.

Petaluma.—J. Hall has commenced practice with his uncle F. A. Cromwell, in the office of the latter at 861 Main stret.

Santa Rosa.—Superior Judge Dougherty, who retired from the bench January 5, has resumed practice in Santa Rosa.

Santa Rosa.—A new firm was launched upon Somona county's legal sea the first of the year. It was styled Webber, Weske & Butts, and was composed of District Attorney Orlow O. Webber, Deputy District Attorney H. W. A. Weske and former Assistant District Attorney T. J. Butts.

COLORADO.

Colorado Springs.—Roscoe P. Ady has formed a connection with the firm of Gunnell, Chinn & Miller with the view of becoming a member at a later date. The beginning of Mr. Ady's connection with the firm dates back several weeks, but announcement of it has been deferred pending Mr. Ady's change from his offices in the Bank building to the offices of Gunnell, Chinn & Miller.

KANSAS.

Iola.—The firm of Myler & Goudy has dissolved. E. W. Myler will continue to occupy the old offices in the Northrup block, while F. H Goudy has secured another suite in the same building.

Sedan.—On January 1 the firm of Fitzpatrick & Shukers was dissolved by mutual consent. This was made necessary by the election of C. D. Shukers as county attorney. Mr. Fitzpatrick will continue business at the old office.

NEBRASKA.

Hamburg.—Frank Hammond has opened an office over the Farmers & Merchants' State Bank. He will discontinue his practice business at Superior, Neb.

Humboldt.—F. G. Haxby, of Auburn, has formed a partnership with Judge E. A. Tucker in the practice of law in Humboldt.

NEW YORK CITY BAR.

MATTERS OF INTEREST TO ATTORNEYS PRACTICING WITHIN THE LIMITS OF GREATER NEW YORK.

(New York City attorneys are requested to send notices of change of address, organization and dissolution of partnerships, etc., for insertion. No charge is made.— Ed.)

Charles Rugh.

Charles Rugh, formerly of Greensburg, Pa., has opened an office in the Bank of Commerce building at 31 Nassau street.

Steuer, Hoffman & Wahle.

Max D. Steuer, Charles L. Hoffman and Charles G. F. Wahle announce the formation of a co-partnership under the firm name of Steuer, Hoffman & Wahle, with offices in the Central National Bank building, at 320 Broadway.

Ex-Justice Steckler Resumes Practice.

Ex-Justice Alfred Steckler, who was appointed by Governor Odell to the Supreme Court bench about a year ago to fill the vacancy caused by the death of Justice McAdam, has again become associated with his brother, Charles Steckler, in the practice of law. The firm has obtained new offices at 170 Broadway.

Seward Baker.

The People's Guaranty & Indemnity Company, with which Mr. Seward Baker has been associated for several years, having consolidated with the Long Island Title Company under the name United States Title, Guaranty & Indemnity Company, he has removed with the company from 787 Tremont avenue, Bronx, to their new address, 160 Broadway, Manhattan.

Grosvenor H. Backus.

Grosvenor H. Backus, son of Principal Truman J. Backus, of Packer Institute, Brooklyn, and for the past three years associate to Gen. Benjamin F. Tracy, has opened an office at 32 Liberty street, in the Mutual Life building, Manhattan. Mr. Backus is secretary of the New York Association of Alumni of Amherst College, at which he was graduated in 1897.

Hatch, Keener & Clute.

The firm of Hatch, Keener & Clute on January 1 succeeded the firm of Hatch & Wickes. The old firm was reorganized, one member dropping out and two new names being added. Judge William A. Keener, who becomes one of the senior partners, is the Dean of

Columbia Law School. E. Sargent Hatch and Frank M. Clute, who were senior members of the old firm, continue with the new firm, also George C. Lay and J. Stuart Tompkins, junior partners. Liston L. Lewis is taken in as a junior partner.

The firm of Hatch & Wickes has been for many years prominent in New York legal circles, devoting its time largely to corporation work. The firm was organized ten years ago, and it secured the first lease for offices in the Security Building, at 100 Broadway, where it still has its headquarters.

Honor to Judge Earle's Memory.

At the recent meeting of the Brooklyn Bar Association the following resolution was adopted:

"Resolved, That the recent death of the Hon. Robert Earl, ex-judge and Chief Justice of the Court of Appeals of this State, removes from our midst an eminent jurist who, in the honest, faithful and capable discharge of his duties had rendered services of incalculable value to the entire community and who had especially endeared himself to the bar by the sterling qualities as judge exhibited by him through his long service in the highest court of the State.

"Resolved, That his eminent character as lawyer, judge and citizen will ever remain as a forcible example of the best type of American citizenship."

Remarks were made by Gen. George W. Wingate, James D. Bell, H. B. Hubbard and George Fisher, expressing the high sense entertained by the bar of the character and services of Judge Earl as one of the most respected judges of the Court of Appeals.

A Thirteen-Year-Old Suit.

An example of the law's delay in New York County, of which the commission appointed by Governor Odell might take notice, is found in a suit to obtain title to property consisting of two lots in Eighth avenue, between 155th and 156th streets, which Mrs. Sarah Lynch agreed by contract to sell to Michael H. Haffey on February 21, 1889. This suit has been in the courts for thirteen years and does not seem to be much nearer an end than when it was started.

The contract provided that Mrs. Lynch should give to Mr. Haffey a deed of the property on March 11, 1889, and that the property should be conveyed to him free of all encumbrances. The price of the property was $7,800, and Mr. Haffey paid $905, 10 per cent. and costs, when the contract was made, the remainder of the purchase money to be paid on the delivery of the deed. A lis pendens on the property prevented Mrs. Lynch from giving a clear title at the time agreed, and five months later Mr. Haffey brought suit to compel her to comply with the terms of the contract. He won his suit in the Supreme Court, after a long delay. The case was taken to the Appellate Division, where the judgment was overturned, but in 1894 the Court of Appeals decided in Mr. Haffey's favor, and ordered a new trial. In the Supreme Court again the case has been running its weary course, and Justice Scott has given a decision that Mr. Haffey is entitled to have a clear deed to the property, which is still in the control of the Lynch estate.

Justice Scott, however, decides that the case must go to a referee to determine certain facts at issue and for an accounting, and after the reference is ended there may be another appeal. The decision is that the plaintiff must pay the balance of the purchase money, $7,020, and interest on it from the time the deed should have been given to him. He must also pay all taxes and assessments on the property since the time of the contract to purchase, less any extra charges arising out of the failure of the defendant to pay such taxes and assessments when they became due. He is entitled, however, to receive with his deed any rentals which the property has paid since he made the contract to purchase it. If it appears that there have been no returns from the property he gets, what may be estimated to be its rental value during the thirteen years in which he is charged with the taxes and assessments. He can have no additional sum, on the ground that the property has been damaged in value, because it appears that the damage was inflicted by order of the Health Board and for sanitary reasons. The taxes on the property have not been paid for several years.

Bar Association Election.

The Association of the Bar of the City of New York had its annual meeting and election of officers on January 6 at its rooms in West Forty-fourth street. At the conclusion of the meeting the secretary, Silas B. Brownell, said that the following ticket had been elected without opposition:

UNIVERSITY OF NEBRASKA. COLLEGE OF LAW.

Situated at Lincoln, the State Capital, with easy access to the courts and to court libraries. A two-years course admits to the bar, with degree of LL.B. Diploma recognized by statute. Law students are admitted to University courses, gymnasium, etc., *free*. No extra charges to students from other States. Address

The Chancellor, State University, Lincoln, Neb.

SOUTHWESTERN

BAPTIST UNIVERSITY COLLEGE OF LAW.

Course, one Year for LL. B. Two Years For Lt. M.

Possible in two ways to get LL. M. course in one year. All expenses very moderate. Good board at from $3.50 to $12.50 per month, including room, heat and light. Diploma admits to bar. We claim to have the best Law School in the country, expense considered. Write for special announcement, Bulletin, etc., address

C. H. FOSEY, LL. M.,
Acting Dean,
Jackson, Tenn.

LAW STUDENTS WANTED

to sell WHITFIELD'S TYPEWRITER CARBON AND RIBBONS—the best on the market. Give way better satisfaction than any other.

Many students are now making enough to pay their expenses selling our goods during their spare time. We pay a liberal commission and have a swell line of goods to prove up our claims.

EXCLUSIVE TERRITORY.
WHO'LL BE FIRST?

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STUDY LAW BY MAIL

Prepares for the Bar in any State. Methods thorough scientific and original. Only correspondence Law School in the United States in affiliation with a resident college—the ILLINOIS COLLEGE OF LAW, largest Law School in Chicago. Lessons prepared under the direction of Howard N. Gilen Ph. D., LL. D., Pres. of the College. Credit given by resident school for work done by mail. Write

University Extension Law School. Dept. H,
McCormick Block, CHICAGO, ILL.

PROMINENT LAW SCHOOLS.

The following is a list of the most prominent law schools throughout the country. Representation in this list will be accorded to law schools, etc.

ALBANY LAW SCHOOL.....Albany, N. Y.
Allen University Law School.....Columbia, S. C.
Atlanta Law School.....Atlanta, Ga.
Baltimore University Law School.....Baltimore, Md.
BOSTON UNIVERSITY LAW SCHOOL.....Boston, Mass.
Buffalo Law School.....Buffalo, N. Y.
CHICAGO COLLEGE OF LAW.....Chicago, Ill.
CHICAGO LAW SCHOOL.....Chicago, Ill.
Geo. W. Warvelle, LL.D., Dean. Preparatory course. Under-Graduate Course of three years leads to LL. B. and admission to Bar. Post-Graduate Courses lead to LL. M. and D. C. L. For catalogue address J. J. Tobias, LL. B., Sec'y, 115 Dearborn Street, Chicago, Ills.
Columbia College Law School. New York City, N. Y.
CORNELL UNIVERSITY COLLEGE OF LAW.Ithaca, N. Y.
Denver University Law School.....Denver, Colo.
Detroit Law School.....Detroit, Mich.
Garfield University Law School.....Kansas.
HARVARD LAW SCHOOL.....Cambridge, Mass.
ILLINOIS COLLEGE OF LAW.....Chicago, Ill.
Ill. Wesleyan Univ'sity Law School.. Bloomington, Ill.
LAW DEPARTMENT, UNIVERSITY OF VIRGINIA.....Charlottesville, Va.
The session begins September 15th, and continues nine months. The course for the B.L. degree covers two sessions. For catalogue address P. B. BARRINGER, Chairman of Faculty.
Louisville University Law School.....Louisville, Ky.
New York Law School.....New York City, N. Y.
Richmond College, Law Dept.....Richmond, Va.
SOUTHERN NORMAL UNIVERSITY COLLEGE OF LAW.....Huntingdon, Tenn.
One years' course leads to LL. B. degree. Diploma admits to bar. Graduates practicing in all parts of Union. Expenses very low. Residence and correspondence courses. Literary studies free. For further information, address EDWIN MAXEY, D. C. L., LL. D., Dean, Huntingdon, Tenn.
University Extension Law School.....Chicago, Ill.
University Law School.....New York City, N. Y.
St. Louis Law School.....St. Louis, Mo.
Tulane University Law School.....New Orleans, La.
University of Maryland, Law Dept.....Baltimore, Md.
UNIVERSITY OF MICHIGAN DEPARTMENT OF LAW.....Ann Arbor, Mich.
University of Texas, Law Dept.....Austin, Texas.
Univ'sity of Pennsylvania, Law Dept.Philadelphia, Pa.
WASHINGTON AND LEE UNIVERSITY SCHOOL OF LAW.....Lexington, Va.
Western Reserve Univ'sity Law School. Cleveland, O.
Wisconsin University Law School.....Madison, Wis.
YALE UNIVERSITY LAW SCHOOL..New Haven, Conn.

Cornell University. COLLEGE OF LAW.

Three years' course leading to the degree of LL. B. Seven resident professors and instructors besides non-resident lecturers. Special department of practice. Law library of 30,000 volumes. Other university courses open to students of law without extra charge. For announcement, address

THE COLLEGE OF LAW, Ithaca, N. Y.

UNIVERSITY OF MICHIGAN.

DEPARTMENT OF LAW.—The next session will open September 23, 1902. Three years' course leading to the degree of LL. B. Graduate course of one year leading to the degree of LL. M. Exceptional opportunities for students wishing to supplement work in law with studies in history and political science. For announcement, giving full information, address

DEPARTMENT OF LAW,
Ann Arbor, Mich.

President, William G. Choate; vice-president, Austen G. Fox, William W. MacFarland, David B. Ogden, George L. Rives, Albert Sticknev; recording secretary, Silas B. Brownell; corresponding secretary, Charles W. Gould; treasurer, S Sidney Smith.

Executive committee—James Byrne, Edward C. Henderson, Payson Merrill, Charles Howland Russell, William G. Wilson.

Committee on Admissions—Stanley W. Dexter, Charles L. Jones, George F. Butterworth, George Folger Canfield, John Steven Melcher, Samuel H. Ordway, Frank L. Polk, Samuel Riker, Jr., Perry Davis Trafford.

These candidates for membership were elected on the report of the Membership Committee:

Victor J. Dowling, Thomas Woods, Dean Sage, Frederick Hulse, Albert R. Lesinsky, Theodore Dwight McDonald, Learned Hand, Edward H Warren, Henry G. Gray, Einar Obrystie, Albert William Putnam, Herbert J. Lyall, Edward J. West, John Godfrey Saxe.

The treasurer reported a cash balance on hand of $5,467 41 and 1,756 members in good standing.

On motion of Ferdinand Schaick, a resolution was adopted for the appointment of a special committee of five to consider and report whether any changes in the laws relating to the taxation of real and personal property and the collection of taxes are desirable and to examine into the administration of the existing laws.

LAW SCHOOLS.

Lebanon School.

Judge W. C. Caldwell, late of the Supreme Court, has been added to the faculty. He will give a portion of his time to the classes during the next term.

University of Ohio—Department of Law.

The State University Law School has been moved to the new building now nearing completion. The recitation rooms on the first floor are in use and the law library is temporarily placed in the west room on the second floor. It is the intention to locate the library in the east room as soon as completed. The home for the school comes just ten years after its establishment.

University of Chicago School of Law.

James M. Sheldon, football captain at the University of Chicago, was elected president of the freshmen class in the new law school at the university on Dec. 6. E. H. Fleming was elected president of the senior class. Sheldon will take his bachelor's degree this year. He is a member of the Phi Delta Theta fraternity and the Woolsack. Fleming last year studied in the Chicago Kent College of Law. He is pledged to Delta Kappa Epsilon and is a member of the Woolsack.

Wesleyan Law School.

The grades for the first and third year classes of the Wesleyan Law School are out.

Among the students of the first year class Mr. Jesse M. David, of Galesburg, took the first prize with a grade of 96; Mr. E. D. Cameron, of Elliott, Ill., was the second with a grade of 95 and Mr. Fred Braeutigan, of Belleville, third, his grade being 93 2-3.

In the senior class Mr. William McCullough, of Tabor, Ill., was first, his grade being 96 8-10. Second place was taken by Mr. P. S. Duffin, of Hoopeston, Ill., with a grade of 95; and third place by Mr. C. A. Ewing, of Decatur, with a grade of 94.

Yale Law School.

An important gift made to the Yale Law School announced on January 7 is of several hundred volumes for the Law School library by Justice George Shiras, Jr., of the United States Supreme Court. Justice Shiras is soon to retire from the Supreme Court Bench and is making disposition of his library. He wrote to the members of the Law School faculty recently of his desire to present to Yale Law School a part of his valuable library, and the offer was accepted. Several cases of books have just been received at the Law School from Justice Shiras. Justice Shiras graduated from the academic department of Yale in 1853 and studied law and practiced afterward in Pittsburg, Pa. In 1883 he was given a degree of LL.D. by Yale.

Boston University School of Law.

After 20 years of active service as instructor and lecturer in Boston University Law School, Prof. James Schouler concluded his official duties in that institution on January 6 in order that he may devote the greater part of his time to the preparation of some legal works which he expects to publish during the next few years. His resignation, which was tendered several months ago, has just been accepted by Dean Bigelow and President Warren.

The announcement is expected to create a widespread interest at the law school, where Prof. Schouler is one of the most popular men in the faculty.

Prof. Schouler was born in Arlington, March 20, 1839. He graduated from Harvard in 1859 and passed the bar in 1862. He was admitted to practice in the Supreme Court of the United States in 1897. He received his legal training in the law office of E. G. Guild, at the time one of the well known practitioners of the state. He never attended a law school, but has taken a great interest in them in recent years. He began as lecturer at the Boston University Law School in 1882, under the deanship of Edmund H. Bennet, at the time when the school was located in the Wesleyan building on Bloomfield street. The school was at that time in its infancy and Prof. Schouler has been closely identified with the growth of the institution to the present time.

In 1890, Prof. Schouler was appointed lecturer in John Hopkins, which position he still holds. His books on legal subjects are authority in all parts of the United States and are often mentioned by English writers. His principal legal works are on the following subjects: Bailments, domestic relations, personal property, husband and wife, executors and administrators and wills. He is also known as a historian having written a history of the United States.

University of Maine School of Law.

The law school of the University of Maine opened its winter term on Wednesday, December 31. More or less of a gloom was cast over the school by the death of one of its most popular members, Walter G. Mansur, which occurred at his home in Pittsfield the day before. A meeting of the school and the members of the Gamma Eta Gamma fraternity was held for the purpose of passing resolutions of respect and to select several students at the school to act as a delegation to the funeral.

There are a number of new students at the school this term and practically all of the old ones have returned. There are a number of new courses as well as several new teachers and two new lecturers.

In February, Hon. Andrew P. Wiswell, chief justice of the Maine Supreme Court, is to lecture before the students on Evidence. In May Hon. L. A. Emery Pwill lecture to the school on Roman Law. His lectures will take place during the week ending May 9 and during the fortnight ending May 30.

The new courses includes, Negotiable Paper, Dean Walz; Criminal Law, M. Simpson, Esq., lecturer; Forest J. Martin, Esq., resident lecturer on Common Law Pleading and Maine Practice; George H. Worster, Esq., lecturer on Damages, and Prof Allen E. Rogers, lecturer on Constitutional Law. These are all new and besides them any of the same courses as in the fall term will be carried on.

BOOK REVIEWS.

Nellis on "Street Surface Railroads" seems to be meeting a real need, judging by its popularity and the commendations which it has received.

"The Ballot Law in Pennsylvania" has been compiled by Paul A. Kunkel, and is published by Sony & Sage, in a buckram binding.

The Century Company has published a "Life of Daniel Webster," by John Bach McMaster. Professor McMaster is always readable, and his work is an interesting complement to Senator Lodge's recently published life of Webster.

The first volume of Macmurchy & Denison's "Canadian Railway Cases Annotated," is now published. The plan adopted has been to take verbatim from the official reports a number of the more important cases recently decided on the subject covered, several decisions being usually grouped under each subdivision. These cases are annotated with a short statement of the law therein discussed, with reference to cases in Canada and England, and, where helpful, to similar cases decided in the United States. The work is published by the Canada Law Book Company, Toronto.

Shepard's Citations of All Cases in the New York Court of Appeals Reports, including Abbott's Decisions, Keyes, Howard's Appeal Cases, Shelden's Notes, Transcript Appeals, and Silvernail, which have had any subsequent citation. Third edition. Published by the Frank Shepard Company, Law Book Publishers, 309 Broadway, New York.

The new edition of this standard work presents the following improvements upon and advantages over all other editions:

First—Abbott's Decisions, Keyes, Howard's Appeal Cases, Selden's Notes, Transcript Appeals and Silvernail Report have been added.

Second—It is printed in newer and larger type; the page of the case cited being in bold-face type, renders the finding of any case easier.

Third—A small figure at the left of the page number shows the exact point in the syllabus to which the citation refers, and appropriate letters at the left of the volume show at a glance whether a case has been affirmed, reversed, critisised, distinguished, explained, followed, harmonized, limited, modified, overruled, parallel case or same case.

Fourth—It shows not only every place where a case has been subsequently cited in the New York Court of Appeals, but also wherever cited or reported in Abbott's Decisions, Abbott's New Cases, Keyes, Howard's Appeal Cases, Selden's Notes, Transcript Appeals and Silvernail Reports; wherever reported in the Northeastern Reporter, American Decisions, American Reports and American State Reports.

Fifth—Whether or not the principal case has been taken to the Supreme Court of the United States, and if so, what disposition was there made of it; whether affirmed, reversed or writ of error dismissed. Example: An examination of the first case (People v. Budd) in volume 117, page 1, will show that this same case is also reported in volume 22, Northwestern Reporter, pages 670 and 682; also reported in volume 15 American State Reports, page 460 and note. It has been affirmed in volume 143 United States Supreme Court, page 517. Parallel case in volume 117, page 621. It also shows that paragraphs 1 and 2 of the syllabus have been referred to, paragraph 1 in volumes 128, 136, 143, 153, 157 and 164, and paragraph 2 in volume 155, page 294. Thus a case is referred to in the dissenting opinion, volume 155, page 294; volume 157, pages 22, 145, 147 and 149, also volume 164, page 111.

Absence of a case signifies the same has never had a subsequent reference.

"A Code of Negligence, Being the Law of the State of New York in Respect of Negligence and Kindred Subjects, As Declared by Its Courts of Last Resort," from January 1, 1798 to July 1, 1902.) (1 Johns. 171 N. Y.) With references to all the cases in the Appellate Division of the Supreme Court from its organization, January 1, 1896. Cases codified, condensed, classified. By John Brooks Leavitt, LL.D. Published by Matthew Bender, Albany, N. Y. Price $6.50.

This is a work which, to use a common expression, we found exceedingly difficult at first to get the "hang of." It is prepared in a manner so entirely different from any we have ever seen. In fact, it seems a kind of combination encyclopedia, collection of cases and treatise of the "Stephens on Evidence" order. The author has divided his subject into three parts, which he entitles, respectively, "Cases Codified," "Cases Condensed" and "Cases Classified."

The first contains a general statement of the various rules. The reader first ascertains the principle which he believes applicable. The facts which give rise to it may be learned by examining the report of the case in Part II. Then, if the reader prefers to conduct his search by way of the facts rather than the principles he may go to Part III., where he will discover those cases which are akin to his own.

Just to see how this new system would work we picked out at random a discussion of the law of contributory negligence and assumption of risk as applied to passengers. This is found on page 170, and rule 160 is as follows: "It is negligence for a passenger to ride unnecessarily upon a car platform or in a baggage, wood or freight car in violation of the printed regulations of a carrier, duly posted." On the next page and following the five rules which the author has laid down relative to passengers is a reference which sends us two pages further, where the cases are abstracted. Picking out the first (Sheridan v. Brooklyn City and Newtown R. R. Co., 36 N. Y., 39) we were rushed into Part II., some 213 pages over, and located a more definite statement of the case. We looked around to see if there was any reference to the matter in Part B and got lost. Some fine day, when we have lots of time at our disposal, we are going to try and master the intricacies of Mr. Leavitt's plan of campaign. That he has produced a valuable work and one which evidences more research than we have seen for some time in a legal text book there can be no question. It is our opinion, however, that when he attempted to pursue his present method of classification he wandered around in a labyrinth. It would have been better had he adopted the plan pursued in Stephens'. Evidence, and after laying down each principle, followed it up immediately with a discussion of the particular cases applicable thereto.

Another unfortunate feature is that he has neglected to a considerable extent the use of display type, and as a result the reader's attention, instead of being attracted, is rather repelled.

The chapter relating to "Verdicts" is one which must be accorded only praise. He has quoted within its 25 pages a schedule of the amounts recovered in every case of negligence in which a verdict was sustained by the Court of Appeals and by the Appellate Division.

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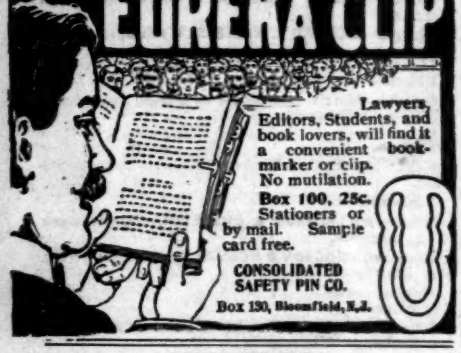

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